

1 UNITED STATES DISTRICT COURT
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3
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

4 PRASANNA SANKARANARAYANAN,)
5) C24-1745-RAJ
6 Plaintiff,) SEATTLE, WASHINGTON
7)
8 v.) January 22, 2025
9) 9:00 a.m.
DHIVYA SASHIDHAR,)
10) EVIDENTIARY
11) HEARING
12 Defendant.) Day 5

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14
15 VERBATIM REPORT OF PROCEEDINGS
16 BEFORE THE HONORABLE RICHARD A. JONES
17 UNITED STATES DISTRICT JUDGE

18
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1	EXAMINATION INDEX		
2	EXAMINATION OF:	PAGE	
3	DEBORAH DAY	CROSS EXAMINATION (Cont.) BY MS. SKINNER	3
4	KEE LAY LIAN	DIRECT EXAMINATION BY MR. MIN	23
5		CROSS EXAMINATION BY MS. SKINNER	43
6	PRASANNA SANKARANARAYANAN	DIRECT EXAMINATION BY MR. MIN	69
7		CROSS EXAMINATION BY MS. SKINNER	72
8		REDIRECT EXAMINATION BY MR. MIN	84
9	LANDON POPPLETON	DIRECT EXAMINATION BY MS. SEIPEL	90
10		CROSS EXAMINATION BY MR. MIN	107
11			
12			
13			
14			
15	EXHIBIT INDEX		
16	EXHIBITS ADMITTED	PAGE	
17	Exhibit 107	22	
18			
19			
20			
21			
22			
23			
24			
25			

1 THE CLERK: We are resuming our evidentiary hearing
2 in the matter of Sankaranarayanan v. Sashidhar, C24-1745
3 assigned to this court.

4 THE COURT: Good morning, counsel. We'll continue
5 with the cross examination.

6 DEBORAH DAY

Having previously been sworn, testified further as follows:

CROSS EXAMINATION (Cont.)

9 | BY MS. SKINNER:

10 Q Dr. Day, yesterday you testified a bit about some
11 guidelines that you believe Dr. Poppleton should be following
12 in the course of the work that he did in this case. Do you
13 recall that testimony?

14 A Yes.

15 Q I just want to be clear, so that we understand exactly the
16 guideline that you're referencing, are you speaking of the
17 "Association of Family and Conciliation Courts' Guidelines
18 For Parenting Plan Evaluations in Family Law Cases," Version
19 2022?

20 A So I referred to two. He said he is a member of AFCC and
21 follows those guidelines. I brought to the court's attention
22 the specialty guidelines for forensic psychology promulgated
23 by the American Psychological Association. I did refer to
24 the guidelines, AFCC guidelines regarding using Zoom. Those
25 are the guidelines that have been promulgated regarding Zoom

1 since COVID. So he uses those guidelines, he says, in his
2 practice. So my assumption is he's familiar with those
3 guidelines.

4 Q Let me clarify my question. When you are referring to the
5 AFC guidelines, are you referring to the "Association of
6 Family and Conciliation Courts' Guidelines for Parenting Plan
7 Evaluations in Family Law Cases," circulated in 2022. Yes or
8 no?

9 A Yes.

10 Q Thank you.

11 A Yes. You're welcome.

12 Q Your report, Dr. Day, states that the question of grave
13 risk to the child remains unanswered by the information
14 provided by the mother to Dr. Poppleton, didn't it?

15 A I don't think -- if you want to point to my report that
16 you're quoting, I'll be glad to answer that.

17 Q That's a yes-or-no question, Page 3, the second paragraph
18 from the bottom.

19 A Yes. That's what I reported.

20 Q And yesterday we had started talking about some of the
21 information that mother provided to Dr. Poppleton in the
22 report about abuse in the home. Do you recall that
23 testimony?

24 A Yes.

25 Q We talked about reports that mother made about pinching,

1 shaking, hitting, right?

2 A Yes.

3 Q And sexual control and coercion, right?

4 A Yes.

5 Q And then we started to talk about some financial control
6 as it relates to the intimate-partner violence. Would you
7 agree that the AFCC guidelines for examining intimate-partner
8 violence includes examining economically aggressive behaviors
9 involving the use of financial means to intentionally
10 diminish or deprive another of economic security, stability,
11 standing or self-sufficiency?

12 A Yes.

13 Q And in addition to reviewing physical, sexual, financial
14 issues in intimate-partner violence, we look at coercive and
15 controlling behaviors, right?

16 A Yes.

17 Q And the AFCC guidelines for intimate-partner violence,
18 when looking at these, includes an examination of
19 psychologically aggressive behaviors which involve
20 intentional harm to emotional, safety, security or
21 well-being, right?

22 A Yes.

23 Q And that can include coercively controlling behaviors that
24 involve harmful conduct that subordinates the will of another
25 through violence, intimidation, intrusiveness, isolation,

1 and/or control, right?

2 A Yes.

3 Q And Dr. Poppleton's report touches on some of these
4 behaviors that mother describes, such as threats to her
5 reputation to disseminate intimate videos of her, right?

6 A Yes.

7 Q And to place hidden cameras in her home, right?

8 A Yes.

9 Q And you would agree that in analyzing coercive control
10 within the intimate-partner violence, that there is -- that
11 there is no doubt that there's impact on children who are in
12 this environment, correct?

13 A Are you talking in general terms?

14 Q Correct.

15 A In general terms, depending on the age of the child, it
16 can impact on children, yes.

17 Q And as Dr. Poppleton's letter indicates, there could be
18 significant risk of harm to a child's physical and emotional
19 and social development after witnessing intimate-partner
20 violence. Would you agree with that?

21 A Yes.

22 Q And that there could be other negative outcome risks,
23 correct?

24 A Yes.

25 Q And Dr. Poppleton's letter indicates that there's a clear

1 difference between the behavior and psychological health of
2 children exposed to domestic violence in the home and those
3 who are not. You agree with that?

4 A Yes.

5 Q And do you agree that in his letter he writes, "In light
6 of the overwhelming evidence that depicts both the short-term
7 and long-term damage that witnessing domestic violence in the
8 home can have on children, it is important to be proactive in
9 protecting them from these harms through education, support
10 for abused parents, and improved identification and
11 intervention for the children."

12 You would agree with that?

13 A I don't recall where that is in his report, so I can't say
14 it's in his report or not. If you want to point that to me,
15 I'm glad to look at it.

16 Q So that's on Page 5. And my question is, would you agree
17 with those conclusions?

18 A In general, yes.

19 Q And would you agree that if true, these would be such
20 instances that could fall under intimate-partner violence,
21 which would be placing hidden cameras in a partner's home?

22 A So asking me if it's true?

23 Q If that's something that occurred, would that fall under
24 the umbrella of an intimate-partner violence environment?

25 A It could, yes.

1 Q And what about an admission by a partner that they
2 retained a lawyer for the purposes of conflicting that lawyer
3 out so the other partner could not retain them?

4 A That's a common practice in high-conflict divorces.

5 Q Is that a coercive and controlling behavior?

6 A Not in and of itself.

7 Q Could it be, with other surrounding evidence of coercive
8 and controlling behaviors?

9 A Coercive and controlling behavior has to demonstrate a
10 pattern of behaviors. It's not an isolated issue. People
11 going through divorce do things they don't typically do. So
12 you would need to evaluate the entire family dynamic to
13 understand those specific findings.

14 Q If that act of conflicting out a lawyer for the purpose
15 that the other parent could not retain them was part of a
16 pattern of other intimate-partner violence factors, would
17 that be included?

18 A I'm not sure I would include that.

19 Q So you just think that it's a common practice that
20 high-conflict parents do, and it's not a concern for you?

21 A In the --

22 MR. MIN: Objection, Your Honor. Argumentative as to
23 form.

24 THE COURT: It's overruled.

25 A It is a common practice that I see in my practice.

1 Probably more often than not, people go to multiple attorneys
2 with that intent. It's part of gaining leverage in a
3 divorce, just like taking money is a leverage point.

4 So in and of itself, I see it frequently. I don't
5 classify it as a domestic-violence issue.

6 Q And would pinching a child so hard that the child would
7 cry, tremble, run away, and run to the other parent for
8 consolation be part of -- could be part of an environmental
9 intimate-partner violence, domestic violence?

10 A Could be. I don't know the circumstances.

11 Q Dr. Day, in your report you indicate that mother described
12 a threat to her child which was not defined in the letter,
13 meaning Dr. Poppleton's letter, except to say that the
14 husband regularly shook their child as an infant. You said
15 that, right?

16 A Yes.

17 Q But threat is mentioned ten times in Dr. Poppleton's
18 letter, isn't it?

19 A Threat to -- I'm a little confused by the question. Could
20 you clarify it, please?

21 Q That there's a threat to the family unit, to mother, to
22 the child.

23 A I'm still not clear what you're asking me. Did he use
24 that word in his report? Yes, he used that word. He didn't
25 define what that threat was, beyond the shaking. And I

1 believe she said hit him one time, or slapped him one time
2 and hit him. There's no timeframe. There's no understanding
3 of whether that was discipline, whether she was present,
4 whether she also engaged in similar behavior. There's so
5 many pieces missing that when we take pieces, it's difficult
6 to answer whether something is or is not abuse, part of a
7 bigger picture. It's just difficult.

8 Q So you just described that Dr. Poppleton's letter did
9 include a description from mother about hitting the child.
10 But you do not relay that in your letter as being a threat to
11 the child.

12 A Again, hitting a child can be corporal punishment. While
13 I don't support corporal punishment as a psychologist, it is
14 permissible and used in many families.

15 I can't distinguish from Dr. Poppleton's letter, or his
16 interview with the wife, whether this was corporal punishment
17 or abuse. I'm not aware that authorities were called and
18 have any findings of abuse. I'm not aware of any police
19 being involved with the child. I'm not aware of any school
20 reporting. So it doesn't appear to me that there are any
21 findings of abuse against this child reported by
22 Dr. Poppleton.

23 Q And you would agree that there is a threat to -- or
24 concerns of violence and coercive controlling behaviors
25 against mother that are related in Dr. Poppleton's letter,

1 correct?

2 A So Dr. Poppleton says in his letter -- he reports what the
3 mother tells him. He also says, I don't know if this is
4 reliable. I am not vouching for this information. I'm not
5 certifying that this is accurate, but here's what she said.

6 And he doesn't draw any conclusions whether she is a
7 victim of violence.

8 Q I didn't ask if there was findings or conclusions, but
9 that Dr. Poppleton relayed information from mother that
10 describes situations of domestic violence, correct?

11 A Yes, he did.

12 Q And --

13 A She did to him.

14 Q And included in that is mother indicating that having a
15 broken family would bring shame upon her, and that threat was
16 used by father as a social leverage against her, correct?

17 A I believe the social leverage was as she reported it, by
18 her family, that divorce in their culture is a shameful
19 event. So she had pressure from her family to stay in a
20 marriage.

21 Q And that father was threatening to divorce her and have
22 that social pressure leveraged against her, correct?

23 A Yes. That's what she reported.

24 Q Dr. Day, how does the world work?

25 MR. MIN: Objection.

1 A What?

2 THE COURT: Sustained.

3 Q Dr. Day, your report says that children do not understand
4 how the world works; does it not?

5 A Correct. Children --

6 Q Doctor, the question was, does your report indicate
7 children do not understand how the world works. That's my
8 question. Yes or no?

9 A Um, if you want to tell me where that is, I will answer.

10 Q You don't recall?

11 A I do not recall, without looking at it.

12 Q Okay. That's on Page 4.

13 A Page 4.

14 Q In about the middle of the page under the headline,
15 "Opinion on child development maturity."

16 A Yes. I see it. They do not understand how the world
17 works.

18 Q You said that?

19 A I did.

20 Q So how does the world work?

21 A So the world is a complex series of relationships,
22 interactions, consequences, pros and cons that are all
23 evaluated individually to understand the life circumstances
24 of an individual. Adults even have difficulty understanding
25 the complexity of how the world works.

1 For an eight-year-old, their world focuses around them.
2 They don't understand the complexities of all of those
3 interplays of the world.

4 Q So if adults have a hard time understanding how the world
5 works, this is not any kind of reliable indication of a
6 maturity of a person?

7 A It is for a child. The child cannot take other
8 perspectives, has difficulty understanding the give-and-take
9 in relationships, clearly has a view of how they function and
10 how they perceive themselves in their very narrow view of the
11 world, which can be who's in my family, how does my family
12 work, or my friends, when am I going to have fun, what
13 activities am I entitled to, and what are the rules.

14 Q So then a child who could understand that despite the fact
15 that their friends would miss them, they still want to live
16 in the U.S., that would be an indication that a child could
17 take into account another's feelings, correct?

18 A Potentially. It depends on the context of those questions
19 and what he has been told about friendships.

20 I don't know this child, so it's difficult to know the
21 context. These interviews were not recorded, from my
22 understanding. So I don't know, except what's on the written
23 paper.

24 Q You indicate, in your report, that the child does not
25 disclose or draw a nexus between himself and domestic

1 violence, only saying his parents argued behind closed doors,
2 didn't you?

3 A Yes, from Dr. Poppleton's report. That's correct.

4 Q Wouldn't it be drawing a nexus if the child were to say,
5 "I want my dad to be nice to me." He understands the impact?

6 A Again, I don't know the context of why that was said.

7 Dr. Poppleton said he didn't want -- the child would not talk
8 about certain aspects of either parent. Like, his mom lied
9 to him. He wouldn't talk about that. He wouldn't talk about
10 why his dad wasn't around.

11 So this was not a child who was particularly open to some
12 dynamics. I don't know if the last time he saw him, his dad
13 punished him. I don't know those contexts.

14 Q You said in your report, "In this case the child describes
15 the more generalized desire to remain in the U.S. because he
16 is American and has more friends in Seattle, although when
17 asked specific questions, his best friends are in Singapore."
18 You wrote that, right?

19 A Yes.

20 Q But that's not what Dr. Poppleton reported, right?

21 A That is what Dr. Poppleton reported.

22 Q Dr. Poppleton reported that the child described his best
23 friends in both Washington and Singapore. Didn't he?

24 A He said his best friends in Washington include two
25 children and my best friends in Singapore include two

1 children.

2 Q So then why did you say, "When asked specific questions,
3 his best friends are in Singapore."

4 A The way it was worded at the time that I read it meant to
5 me that longer-term friendships, because he had been in
6 Singapore longer with these friends, were representing
7 longer-term best friends than the newer relationships that
8 wouldn't be classified as long-term relationships. That's
9 how I interpreted it.

10 Q Just so I understand what we're talking about, your
11 interpretation of this, Dr. Poppleton reported, "He said his
12 best friends in Washington includes two, Suhan and Weisong
13 (phonetic). There is a kid named Logan; he is fun to be
14 with. My best friends in Singapore were Nicholas and Luka."

15 Are you saying you extrapolated from those two
16 statements somehow that the best friends in Singapore were
17 weighted more than the ones in Washington?

18 A I guess.

19 Q Dr. Poppleton reported that when asked if the child
20 thought his living in Washington might impact anyone, he
21 suspected that his desire to remain in Washington, "Might
22 hurt my friends in Singapore, but I want to stay." That's a
23 description of a child who's understanding the impact of his
24 actions on others' feelings, correct?

25 A Yes.

1 Q But your report says that eight-year-olds do not take
2 other perspectives, seeing only their needs, right?

3 A Yes. In general, eight-year-olds' perspectives are not
4 prospective like that. They can understand friendships,
5 primarily. They can take a perspective. But it's a very
6 self-focused perspective.

7 Q You note that Dr. Poppleton's report has no psychological
8 testing, correct?

9 A I do.

10 Q Would you agree with Dr. Favaro, regarding the testing,
11 indicating that he placed little emphasis on standard tests
12 due to the age of the child and the measures standing up to a
13 methodological rigor in legal settings as opposed to clinical
14 settings?

15 A Would I agree with that? No. I think, as I've said in my
16 direct testimony, psychologists have the unique ability to
17 use reliable and valid measures of things like intelligence,
18 personality strengths and weaknesses, impression management,
19 anxiety, trauma. And we use those as collaterals; they
20 support our decisions and opinions.

21 Q You describe that alternative hypotheses should be
22 generated in any forensic case, right?

23 A Yes.

24 Q What is the question to be answered in this case?

25 A I'm not following you. Beyond grave risk and mature age?

1 Q No, that's what I'm -- what you've touched on, your role
2 here, is to critique Dr. Poppleton's report. His question
3 was on grave risk and mature child, correct?

4 A Correct. So when you look at an opinion around that, you
5 would gather data points to support those opinions, explain
6 yourself and where you got those data points, or dispute that
7 that exists. So you develop hypotheses within that grave
8 risk. There's child abuse. There's not child abuse.
9 There's domestic violence. There's not domestic violence.
10 There's substance abuse. There's mental illness. You would
11 look at all of those categories in order to come to a
12 conclusion.

13 Q And in this case the conclusion is there is a grave risk
14 or there is not, correct?

15 A Correct.

16 Q And so when you describe, on Page 5 of your report, things
17 that you call "hypotheses," are those actually hypotheses or
18 just observations?

19 A They are hypotheses -- oh, I'm sorry.

20 Q Go ahead.

21 A No, I'll let you finish your question. I apologize.

22 Q Well, I was going to go through some of those that you
23 listed there. You listed mother sharing inappropriate
24 information with the child. That doesn't rule out a grave
25 risk or not, right?

1 A No. That would go to undue influence. So there are
2 different hypotheses that I put out by looking, just at the
3 data that he had, that need to be considered in order to come
4 to an opinion.

5 Q And the child having an attachment to both parents does
6 not rule out whether there's a grave risk of exposure to
7 harm, correct?

8 A I don't know the answer to that because attachments are
9 protective. Again, domestic violence is not one size fits
10 all. The child is not one size fits all. So you have to
11 generate these hypotheses and explore them in order to answer
12 those questions, at least from an opinion standpoint, to
13 assist the trier of fact.

14 Q And the mother being a restrictive gatekeeping parent does
15 not indicate whether there is a grave risk of harm to the
16 child or not, correct?

17 A Well, it could. If she's a restrictive gatekeeper and not
18 a protective gatekeeper, she could be influencing the child
19 to make allegations. She could be making false allegations.
20 So it is part of answering a question.

21 Q And cultural factors do not indicate whether there's a
22 grave risk of exposure of harm to the child or not, correct?

23 A It's a part of understanding and interpreting mother's
24 statements and child's statements. As we just talked about,
25 shame by her family is an important aspect, whether this is a

1 patriarchal family. Was it a traditional family? How does
2 religion -- they are Hindu. Does being a Hindu play into
3 these dynamics? These are all important questions to look at
4 grave risk.

5 Q And you would agree that when looking at these ideas of
6 whether or not undue influence or gatekeeping plays in, that
7 the first thing that we need to figure out is whether or not
8 those are a byproduct of the domestic violence caused by
9 father, correct?

10 A I was thinking as you were talking. Would you mind
11 repeating your question?

12 Q Wouldn't you agree that when we're looking at these
13 considerations or hypotheses of undue influence or
14 gatekeeping, that we first need to look at the issue of
15 whether those are a byproduct of domestic violence by father,
16 correct?

17 A So that's all one big pot. Yes, you're going to do
18 analysis of intimate-partner violence. You're going to do
19 analysis of coercive control. And you're going to have
20 alternative hypotheses to those statements. It's not
21 uncommon in high-conflict divorces for somebody to claim
22 they're being alienated and the other parent make an
23 allegation in retaliation. Those are perceptions and
24 narratives that often get entrenched. And our responsibility
25 is to look at all of those components and come to a reliable

1 and valid opinion.

2 Q But we're not coming to opinion on a high-conflict divorce
3 case here, right?

4 A No. I was using that as an example.

5 Q Do you agree that mothers can provide nurturing and
6 security needs for their children on a day-to-day basis?

7 A Yes.

8 Q And that it's a good policy to protect their ability to do
9 so?

10 MR. MIN: Objection, relevance.

11 THE COURT: Counsel, it sounds more like a custody
12 issue as opposed to the issue before this court.

13 MS. SKINNER: Thank you, Your Honor. I'll move on.

14 Q When looking at analysis of whether a parent is a
15 restrictive gatekeeper or engaging in undue influence, do we
16 need to analyze the impact of domestic violence on that
17 parent?

18 A Yes.

19 Q And isn't it the case that domestic violence is designed
20 to destabilize control and keep that other parent in their
21 place?

22 A Generally speaking, yes.

23 Q Okay.

24 You indicate in your report that mother described --
25 that mother did not describe intervening in a protective

1 manner when her son was being shaken by the father. Do you
2 remember that?

3 A Yes. It's not in Dr. Poppleton's report.

4 Q Did you not consider the fact that by conceding to
5 father's demands for sex in that moment was an intervention?

6 A So that's not what the report says. It says that was the
7 purpose of the father's behavior. It doesn't play out an
8 entire story that she then gave in to sex to protect her
9 child. That's not in his report.

10 Q And if she had done that, would you agree that that would
11 be a protective intervention?

12 A So that doesn't seem to be the methodology of the story.
13 She is saying the shaking happened. So she's not saying he
14 threatened to shake the child; she's saying he shook the
15 child.

16 Q Dr. Day, you testified on direct examination that testing
17 is helpful when crafting our opinion. Do you remember that?

18 A Yes.

19 Q But Dr. Poppleton in this case did not craft an opinion,
20 right?

21 A Correct.

22 MS. SKINNER: I have no further questions for this
23 witness.

24 THE COURT: Redirect?

25 MR. MIN: No redirect, Your Honor.

THE COURT: Any objection to this witness being excused?

3 MR. MIN: Yes, Your Honor. She may stay and observe
4 some of the remaining trial, if that's okay, Your Honor.

5 THE COURT: All right.

6 You are not excused at this point in time, which means
7 that you're permitted to remain, by observing. But we'll
8 proceed now with calling the next witness. Counsel.

9 THE WITNESS: Thank you, Your Honor.

10 MR. MIN: Thank you, Your Honor. Do we have Kee Lay
11 Lian in the waiting room?

12 | THE CLERK: She's in the witness room.

13 MR. MIN: I know Your Honor had reserved ruling on
14 Dr. Day's report. Before I forget, I wanted to renew my
15 application to have that admitted into evidence.

16 THE COURT: Counsel.

17 MS. SKINNER: No objection, Your Honor.

18 THE COURT: It's admitted. And that's exhibit
19 number --

20 MR. MIN: 107.

21 | THE COURT: No. 107 is admitted.

22 (Exhibit 107 was admitted.)

23 THE CLERK: If you could please raise your right
24 hand.

25 KEE LAY LIAN,

1 having been sworn under oath, testified as follows:

2 THE CLERK: If you could please state your first and
3 last names and spell your last name for the record.

4 THE WITNESS: My last name is Kee K-E-E. My first
5 name is Lay Lian.

6 DIRECT EXAMINATION

7 BY MR. MIN:

8 Q Good evening, Ms. Kee.

9 A Good evening.

10 Q Could you please describe your current occupation?

11 A I'm a partner in a law firm called Rajah & Tann Singapore,
12 LLP.

13 Q How long have you been a practicing attorney?

14 A I have been called to bar 1986. So I've practiced around
15 38 years.

16 Q In what field of law do you practice?

17 A I practice primarily in matrimonial family law and trust
18 matters.

19 Q What percentage of your practice would you say is in
20 matrimonial and family law?

21 A Probably about 80 percent of my practice, current practice
22 is on matrimonial law.

23 Q And in your matrimonial family law practice -- and we'll
24 focus on that area of law -- - do you handle cases dealing
25 with custody?

1 A Yes, I do.

2 Q Domestic violence?

3 A Yes, I do.

4 Q And what percentage of your practice would you say deals
5 with issues of custody?

6 A About 50, 60 percent. Almost all the cases deal with
7 custody and financial issues. So most of the cases always
8 have children issues, in my practice.

9 Q What about domestic violence issues? What percent of your
10 practice deals with issues of domestic violence?

11 A Probably about 50 percent, I'd say.

12 Q And in your practice, do you represent both the alleged
13 victim and alleged perpetrator of domestic violence?

14 A That's correct.

15 Q Have you ever written in the area of Singaporean family
16 law?

17 A Sorry?

18 Q Have you ever written any articles or publications in the
19 area of Singaporean family law?

20 A Yes, I have.

21 Q In the areas of custody or domestic violence?

22 A Yes, I have.

23 Q Can you describe a little bit of your writings?

24 A Recently wrote in Chambers on relocation of children, the
25 current trends in Singapore. I also wrote on prenuptial

1 agreements and the financial distribution in Singapore. It's
2 been published in England and in the local journals.

3 Q Have you ever lectured or taught any courses in the area
4 of Singaporean family law?

5 A Yes. About four years to six years I was a member of the
6 Singapore Institute of Legal Education, which train the --
7 practice trainings, before they are called to bar. And I
8 teach and facilitate the lectures in family law and in trust
9 probate and wills.

10 Q Do you belong to any professionals organizations?

11 A Yes. I'm a fellow of the IAFL, the International Academy
12 of Family Lawyers. I am also mediator of the Singapore
13 Mediation Centre. I do -- I'm also a notary public, a
14 commissioner for oath, and Singapore Law Academy member.

15 Q What is the International Academy of Family Lawyers? Can
16 you describe that?

17 A The International Family Lawyers -- Academy of Family
18 Lawyers is an organization which is -- admits only family
19 lawyers who have been in practice for at least ten years.
20 They are also people who are invited to be members. And they
21 must be people who are recognized as -- by their own peers as
22 leaders of that profession.

23 Q I'm going to show you a document that's been admitted into
24 evidence as Petitioner's Exhibit 109, starting at Bates stamp
25 1589. We'll look at the four pages, 1689 to 1692. Is this a

1 copy of your CV?

2 A Yes, it is.

3 Q Scroll down four pages.

4 Have you ever been qualified to give testimony as an
5 expert witness?

6 A Yes, I have. I've given expert witness opinions in court
7 to testify in foreign courts, in Australia.

8 Q How many times have you testified as an expert witness in
9 foreign courts?

10 A About three times.

11 Q What areas?

12 A In areas of family law in Singapore, jurisdiction,
13 (unintelligible) and custody.

14 MR. MIN: Your Honor, at this time we would like to
15 move to qualify Ms. Kee as an expert in the area of
16 Singaporean family law.

17 MS. SKINNER: We would object on the basis that
18 FRCP 26(a)(2)(B) was not complied with in this regard. The
19 witness just testified that she has written publications,
20 which were not provided within her written report. The rule
21 requires that the witness include a list of all publications
22 authored in the previous ten years. The report is void of
23 that requirement.

24 THE COURT: Counsel.

25 MR. MIN: Your Honor, just let me check on that.

1 Your Honor, we're just double-checking that.

2 THE COURT: We'll have a stretch break while you're
3 looking for that, counsel.

4 MR. MIN: Your Honor, can I just run to the bathroom
5 real quick?

6 THE COURT: Yes.

7 (Stretch break.)

8 THE COURT: Ready, counsel?

9 MS. SKINNER: Yes, Your Honor.

10 MR. MIN: Yeah.

11 Your Honor, I note the witness just testified to a
12 publication that was not noted in her report. We acknowledge
13 that. However, we think the probative value outweighs any
14 prejudicial effect. Counsel has an opportunity to voir dire.
15 We're happy to supplement with whatever publications she has.

16 MS. SKINNER: The purpose of this rule is very clear,
17 that the publication should be provided. And the purpose of
18 that is that that would give me an opportunity to read the
19 publications, and in the course of my cross examination,
20 potentially impeach this witness with her own publication, if
21 she says something different in a publication than she said
22 on the stand today. So this will materially prejudice my
23 ability to cross examine this witness.

24 THE COURT: Counsel, we're going to conduct the
25 examination of the witness. I'll require that counsel

1 produce to you a copy of that report. We'll recess and give
2 you the opportunity to review the report. And you can
3 continue with your cross examination if you believe that's
4 necessary or appropriate. How voluminous is this report?

5 MR. MIN: The publication?

6 THE COURT: Yes.

7 MR. MIN: I would have to ask the witness.

8 MS. SKINNER: Just to clarify. All publications in
9 the past ten years is the requirement. So we'd ask the
10 witness to provide those.

11 THE COURT: I think the witness only testified to
12 having published this one.

13 MS. SKINNER: I don't know if he asked about a
14 ten-year period or the most recent publication.

15 MR. MIN: I'll ask the witness.

16 Q Ms. Kee, how many publications do you have in the last ten
17 years?

18 A About three.

19 Q Could you please send those over when you get a chance?

20 A Yes.

21 Q Thank you.

22 THE COURT: Counsel, will you ask how difficult the
23 process will be to transmit those reports? And does she have
24 an assistant where she is right now that could start that
25 immediately?

1 MR. MIN: Is there someone you could contact to
2 transfer those three publications over as soon as possible?

3 THE WITNESS: Your Honor, it is 1:51 at the moment in
4 Singapore -- a.m. in Singapore -- so I can't get anybody to
5 do it. It's just me at this moment. I have a hearing in
6 court at 9:30 a.m., for the whole morning. So the earliest I
7 can give you will be around my time in the afternoon.

8 THE COURT: How voluminous are the reports?

9 THE WITNESS: They are articles, so probably a few
10 pages. And it wouldn't be more -- each article wouldn't be
11 more than ten pages.

12 THE COURT: And have any of the articles been
13 produced, counsel?

14 MR. MIN: No, Your Honor.

15 THE COURT: All right. Please continue. The court
16 has provided a remedy.

17 MS. SKINNER: Yes, Your Honor. Just so I understand,
18 will the witness remain available after I receive the
19 reports?

20 THE COURT: She has to be made available.

21 MR. MIN: Yes, Your Honor.

22 MS. SKINNER: Thank you, Your Honor. I had one other
23 basis. She also failed to comply with the requirement of
24 FRCP 26 to provide a statement of compensation paid.

25 MR. MIN: Your Honor, that in fact is not true

1 because we provided counsel a disclosure of that on
2 December 19, 2024.

3 THE COURT: Do you acknowledge receipt of that,
4 counsel?

5 MS. SKINNER: I can look at that during -- it wasn't
6 provided with the report, and that's where I looked for it,
7 Your Honor. So I can look for the separate disclosure.

8 THE COURT: Based on the representation of counsel,
9 it was provided. Unless you provide something contrary, the
10 objection is overruled on those grounds.

11 MS. SKINNER: Thank you, Your Honor.

12 THE COURT: Please continue.

13 MR. MIN: Thank you, Your Honor.

14 Q Ms. Kee, can you briefly describe what you were asked to
15 do in this case?

16 A I'm sorry.

17 Q Can you previously describe what you were asked to do in
18 this case?

19 A I was asked to give an opinion about the Singapore law
20 from the perspective on child custody issues in Singapore,
21 access and protection in Singapore, and maintenance in
22 Singapore for the child.

23 Q And did you reach conclusions or opinions as part of your
24 assignment?

25 A Yes.

1 Q I'm going to show you a document that's been admitted as
2 Exhibit 1019, Bates No. 1675 to 1687. Is this the copy of
3 the report that you produced?

4 A Yes. I confirm that's my report.

5 Q I'm sorry, you said you confirm that this is your report?

6 A That this is my report. Yes, I confirm.

7 Q Okay. So I want to ask you, did you offer an opinion as
8 to whether Singapore has jurisdiction to issue orders of
9 custody in this case?

10 A Yes. I offered an opinion, and that is found in the
11 report at paragraph 8 on the section "parent arrangements,"
12 which would include custody, care and control, and access.

13 Q What was your opinion?

14 A I'm sorry.

15 Q I was going to ask you what your opinion was about the
16 question posed?

17 A My opinion is that Singapore has jurisdiction under the
18 Guardianship of Infants Act in Singapore. It is standalone.
19 There is no requirement of the minimum stay in Singapore. As
20 long the child is habitually at residence in Singapore, the
21 court in Singapore, under Section 5 of the Guardianship of
22 Infants Act, has jurisdiction.

23 In fact, in this case the mother herself and the father
24 make applications under this in the Singapore court. The
25 mother's application is OSG-131 of 2024, and the father's

1 application is OSG-140 of 2024.

2 Q And so if Singapore courts have jurisdiction to issue
3 orders of custody, what type of orders could they issue as it
4 pertains to custody?

5 A The courts can make a decision on the child care, control
6 of the child, based on the best interests of the child. And
7 the court will also grant access. Under this legislation,
8 the court can also grant maintenance for the child.

9 Q Okay. What factors do Singaporean courts consider when
10 issuing orders of custody?

11 A The court will consider what is in the best interests of
12 the child. The court takes into account all the relevant
13 factors in that particular case. And the court will look at
14 the child's welfare as a priority over the parents' wishes.
15 The wishes of parents as well as of the child is also taken
16 into account.

17 Q What about domestic violence? Is that taken into account
18 in custody determinations?

19 A The court will consider that as part of the metrics of
20 what is relevant. And at the end of the day, the court still
21 looks at what is the relevance to the best welfare of the
22 child.

23 Q What do you mean by that?

24 A The court basically looks at whether the domestic violence
25 is directed at the child, is directed at the other members of

1 the parties. And the court doesn't really think every
2 domestic violence should be the reason why a custody should
3 be awarded or not awarded to a parent. So it depends on the
4 relevance of that domestic violence.

5 Q Okay. What about relocation? Is that something that the
6 Singapore courts are in a position to address?

7 A Yes. The Singapore courts look at the relocation and also
8 considering best interests of the child in each case.

9 Q So in this case, is the mother able to seek relocation
10 before the Singaporean courts to relocate to the United
11 States?

12 A Yes.

13 Q I'm sorry, did you say "yes"? I apologize.

14 A Yes. The mother is able to apply to Singaporean court for
15 relocation. And I believe in this application the mother
16 wants to do that as well.

17 Q So can you describe the process or processes that can be
18 employed during custody proceedings in Singapore?

19 MS. SKINNER: Objection, relevance.

20 MR. MIN: Your Honor, this is relevant because this
21 goes to ameliorative measures on a grave-risk case. So when
22 the court is assessing whether there's a harm of risk to the
23 child and whether that meets the high threshold of grave risk
24 of harm to a child, one of the considerations this court
25 should undertake is what measures are possible and feasible

1 in Singapore to ameliorate or, as the experts have called it,
2 "mitigate" any risk of harm. So what options are available
3 to the Singapore courts and to the parties through litigation
4 in Singapore is certainly relevant to these proceedings.

5 MS. SKINNER: Your Honor, in *Golan v. Saada* the U.S.
6 Supreme Court indicated that it should decline to consider
7 such ameliorative measures if such proposed measures "Draw
8 the court into determinations properly resolved in custodial
9 proceedings."

10 So this falls outside of that consideration.

11 MR. MIN: Counsel is misapplying the *Golan* case. The
12 case talked about warning that this court should not embroil
13 itself in making custody determinations as part of
14 ameliorative measures.

15 We are not asking this court to make custody
16 determinations. We're asking this court to understand and
17 assess Singapore's ability to make custody determinations and
18 whether those available measures are sufficient to ameliorate
19 any potential risk.

20 THE COURT: Objection is overruled. She can answer
21 the question.

22 Q So I'll withdraw the question, Ms. Kee. I'm going to ask
23 a more pointed question.

24 During a custody proceeding in Singapore, are forensic
25 or other psychological evaluations an available mechanism for

1 courts to determine the best interests of the child?

2 A Yes. The courts in Singapore have several tools to
3 consider the best interests of the child when there are
4 issues about who is the best parent. The court can appoint
5 their own in-house counselors. In Singapore we have court
6 counselors within the court system itself, called the
7 "Counseling and Psychological Services" of the courts.
8 Called, in short, CAPS, C-A-P-S, CAPS.

9 These are counselors and psychologists that are in the
10 court system, and the court often refers to them for custody
11 evaluation reports, or access evaluation reports, or
12 specifically [indecipherable] reports. And the counselors
13 and psychologists will speak to the child as well as the
14 parent and come up with their own report.

15 The counselor's report in these cases are usually private
16 to the judge and confidential. So parties and their lawyers
17 are not given access to the report. That's why they're
18 independent. And the court often also orders for -- orders
19 for people to -- for parents to go to this system called the
20 "Divorce Specialists Support Agency" which is an agency
21 called DSSA where they can do supervised visitation or do
22 supervised handover. So the court can do things in
23 Singapore.

24 And after around eight sessions the DSSA counselor will be
25 able to give a regular report. And the court sometimes

1 extends the eight sessions to another eight sessions. And
2 the court also, in Singapore, has the ability for the judges
3 to do judicial interview of the child.

4 Q What is a judicial interview of the child? What does that
5 entail?

6 A The judicial interview of the child means the court, the
7 judge himself can exercise its discretion, speaking to the
8 child himself, and find out the inclination and the voice of
9 the child by talking to them directly.

10 Q Before when you were answering the question about forensic
11 or psychologic evaluations, you were using the term
12 "counselors." I just wanted to clarify. Are you referring
13 to mental health counselors, not legal counselors?

14 A Yes. The mental health counselors, like psychologists.

15 Q Okay. Are children able to have their own representation
16 during custody proceedings in Singapore, meaning can they
17 have their own lawyers?

18 A Yes, they can appoint -- the court can appoint a
19 representative for the child. The benefit of a child
20 representative is that they are specially trained, and
21 usually they're lawyers or psychologists. And they can go
22 and interview the relevant parties, meaning the schools, they
23 can visit the child at their home, they can do a lot of other
24 things, like visiting the child, bringing the child out and
25 interacting with the child to see what the child really needs

1 and wants.

2 Q When you were talking about the forensic or psychological
3 evaluation process, you mentioned that they could -- you
4 mentioned some of the things they looked at, and they can
5 also evaluate specific, I think, specific tasks or issues.

6 Are forensic or psychological evaluators or counselors
7 sometimes tasked with evaluating domestic violence in the
8 context of a custody case?

9 A No. I don't think psychologists -- the court's
10 psychologist is usually tasked for the reason for domestic
11 violence, but the information that is coming across during
12 the interviews with the counselors.

13 Q What was the last part?

14 A There is information that the parties can give the
15 counselors, and the counselors can take that and report to
16 the court.

17 Q Okay. They report that to the court?

18 A Yes.

19 Q Okay. And you were mentioning the process with the DSSA.
20 Is that considered supervised visitation in Singapore?

21 A Yes, it is usually access where the parties -- where the
22 father, in most of the cases, has lost contact with the child
23 or has difficulty reconnecting with the child, and the issues
24 of safety or issue of whether the child is comfortable with
25 the father. Can the father look after the child without, you

1 know -- and the relationship between the father and the child
2 and the father's ability to take care of the child. So they
3 often ask for access to be supervised for a period of time,
4 over around eight sessions, for the counselors to watch and
5 to report to the court.

6 Q Is there anything akin to therapeutic visitation that a
7 Singaporean court can order?

8 A That is one of them. But the court can, on its own, also
9 order private psychologists, allow private psychologists to
10 accompany the visitation as well. So there are reported
11 cases on that in Singapore, where the court allows the
12 parties to accompany the visitation.

13 Q The court can order -- can the court order psychological
14 therapy for one or both of the parties?

15 A Yes. The Singapore court can order parenting -- both
16 parents to attend parenting courses, or parenting courses for
17 both parties. In some cases the court allows and orders
18 therapeutic intervention for the entire family.

19 Q If the parties agree to a temporary custodial arrangement,
20 for example, if the parties agreed that temporarily
21 visitation would be supervised, is that something that the
22 Singaporean courts would adopt as an agreement between the
23 parties?

24 MS. SKINNER: Objection, relevance and speculative.

25 A Yes.

1 THE COURT: It's overruled. You may answer the
2 question.

3 A Yes. The court will allow such report of consent order.

4 Q You mentioned earlier child maintenance as one of the
5 areas you opined on, correct?

6 A Yes.

7 Q And did you come to an opinion as to whether the Singapore
8 courts have jurisdiction to issue orders for child
9 maintenance?

10 A Yes. The courts have jurisdiction, under the Guardianship
11 of Infants Act order, to order maintenance for the child.
12 And usually the court will look at the child's personal
13 expenses as well as the household expenses, including the
14 parents'. And a share of the household expenses attributable
15 to the child.

16 But in cases where mothers has no ability to earn any
17 money, the court can contribute the entire household expenses
18 to child maintenance as well.

19 Q If the parties were to agree on a temporary maintenance
20 amount, again, temporarily until the court was in a position
21 to make a final order, would that temporary agreement be
22 something that the Singapore courts would adopt?

23 MS. SKINNER: Objection, relevance.

24 THE COURT: It's overruled.

25 Q You can answer.

1 A I'm sorry, do I answer?

2 Q Yes.

3 A Yes. The court will basically allow such orders to remain
4 as well. Does that answer your question, Richard?

5 Q Yes.

6 Did you reach any conclusions or opinions about whether
7 Singapore courts have jurisdiction to issue orders of
8 protection in Singapore, called Personal Protection Orders?

9 A Yes, I did.

10 Q What was your opinion as to whether the Singapore courts
11 could issue Personal Protection Orders?

12 A The courts have the power to issue protection orders. In
13 fact, the law on protection orders has just recently been
14 changed on the 16th of January. And this new ruling on
15 family violence has been expanded, and it rises to physical,
16 emotional and physical abuse. So under the new legislation,
17 the court has very extensive power.

18 Q So what type of protection orders are available by the
19 Singapore courts?

20 A The Singapore courts distribute a protection order, which
21 is usually -- protection order without any specified time for
22 expiry. And a very -- in a case where there's an emergency,
23 the court can expedite the protection order even before
24 trial, just to protect the applicant before the hearing or
25 the trial of the matter. And the court can also include a

1 domestic exclusion order to exclude a party from matrimonial
2 home or the family home. With the extension of the order
3 under the new rule, the court can make 13 orders, in fact,
4 which include non-contact, no-contact order. The court can
5 include supervised access. The court can include an order
6 for removal of the person from the house. So it is a very
7 extensive power now that the court in Singapore is going to
8 have.

9 This legislation just came into force. So we are all
10 waiting to see how this will play out. But it is expected
11 that under the regime, it's going to be easier to get a
12 protection order if the applicant is under abuse.

13 Q What considerations does the Singapore court undertake
14 when deciding whether to issue protective orders?

15 A The court looks at whether violence is committed, which
16 means, under the new legislation, whether there's hurt, the
17 fear of hurt, whether there's sexual abuse, emotional abuse,
18 coercion. The court looks at, also, the issue of whether
19 this person has been repeatedly abused.

20 Q Are protective orders available for children as well?

21 A Yes. Typically the court has issued protective orders
22 against the father or the mother for children where needed.

23 Q I'm sorry. What was the last thing that you said?

24 A They have issued where needed.

25 Q Where needed, okay.

1 A Where needed.

2 Q What do you mean by "where needed"?

3 A If circumstances require, the court will issue such orders
4 for the children.

5 Q But I would like you to explain what circumstances would
6 require something like that.

7 A Where there's violence against the children. Where the
8 court feels, in Singapore -- in the origin -- where the court
9 feels that there's continual harassment with intention to
10 cause anguish to the parties. Where there's physical hurt.
11 Where there's fear of hurt, threats. Where there is false
12 imprisonment or confinement of a person against the person's
13 will. So these aren't all the cases. But as I say, these
14 definitions have been retexturized under the new law which
15 allows for sexual, physical and emotional abuse. So "abuse"
16 is now the key word for protection order.

17 Q So if the parties in this case were to reach an agreement
18 or the father in this case were willing to agree to a
19 protective order, is that something that the Singapore courts
20 would abide by?

21 A Yes. The Singapore courts typically -- let me explain how
22 we do it. The Singapore court usually lets the parties, when
23 there's a new application, for parties to have a counselor
24 before the court sees the parties. And where the parties
25 agree to a protection order or to removal of that

1 application, the court typically allows that, and the court
2 then orders.

3 Q If the parties were to agree, and if the father were to
4 agree not to cancel any dependent passes for the spouse, is
5 that something that could be reduced to a court order in
6 Singapore?

7 A Yes, it can be.

8 MR. MIN: Your Honor, I have no further questions at
9 this time.

10 THE COURT: Cross examination.

11 MS. SKINNER: Thank you, Your Honor.

12 CROSS EXAMINATION

13 BY MS. SKINNER:

14 Q Ms. Kee, in coming up with your opinions here today, did
15 you consider any facts that were provided to you?

16 A Yes, I did.

17 Q Where are those facts located in your report?

18 A The facts were the OSG documents 131 and OSG-140. The
19 documents provided to me was the application as well as the
20 affidavit and supporting affidavit.

21 Q I'm sorry, could we break that down? What was the first
22 set of facts that you describe? OSG?

23 A OSG-131, which is the mother's application under the
24 Guardianship of Infants Act. And the OSG-140, which is the
25 father's application under the Guardianship of Infants Act.

1 So those documents are provided to me, you know, as a
2 background to what this case is all about.

3 Q Can you help me understand what an OSG-131 is?

4 A OSG is the application, the summons number for the
5 mother's application for child, care of the child. And this
6 is referred to at paragraph 10 of my report.

7 Q So you're talking about a court pleading that was filed in
8 Singapore courts?

9 A Yes. That's correct.

10 Q Okay. And you're saying there was a filing made by mother
11 in OSG-131; is that right?

12 A Yes.

13 Q And that there was a filing made by father in OSG-140?

14 A Yes. That's correct.

15 Q Okay. Were there any other facts provided to you about
16 the case that you used in forming your opinions?

17 A Was there any other facts? These are the papers given to
18 me, mother's maintenance application, maintenance summons.
19 And the mother's protection order application, which is the
20 PPO application in Singapore. So the mother made
21 applications for maintenance in Singapore, and the mother
22 also made application for a protection order in Singapore.

23 What I understand is that both applications has been
24 withdrawn by the mother in Singapore.

25 Q Okay. So I'm not asking about what the current status of

1 these documents are. I'm just asking what you considered in
2 coming up with your opinion. And you just testified that
3 there was two more court pleadings that you reviewed, the
4 mother's application for maintenance support in Singapore; is
5 that right?

6 A Yes.

7 Q And then the mother's application for a protective order
8 in Singapore?

9 A Yes.

10 Q And do you refer to both of those documents in your
11 report?

12 A No, I did not. Because they were given to me as
13 background of the facts that, you know, that they wanted me
14 to understand before I made my report. My report is based on
15 the ability of the court to protect the child and to give the
16 jurisdiction of the court in Singapore. That's all.

17 Q So you were provided and reviewed, again, these two
18 additional court pleadings that you did not refer to in your
19 report. Is that your testimony?

20 A Yes.

21 Q And then you indicated that you reviewed a letter of
22 instruction dated November 21, 2024. What is that document?

23 A That is the letter from Green Kaminer to me informing me
24 and instructing me to give a report on the situation and what
25 my opinions were to cover.

1 Q Were there facts and data contained in that letter?

2 A Yes, there was.

3 Q And are those facts --

4 A As a background.

5 Q Are those facts and data referenced in your report?

6 A No, they are not.

7 Q And you also reference that you received annexures or
8 exhibits to that letter. What did that comprise?

9 A Annexures were HPP annexures concerning custody cases,
10 like the OSG applications, the two applications, the court
11 papers, the application for the protection order, the
12 complaint by the mother, and the complaint filed by her for
13 DSSA, which is the protection order and the complaint.

14 MS. SKINNER: Your Honor, at this point I'd move to
15 strike this witness's testimony, again, for failure to comply
16 with FRP 26(a). The witness just testified there were facts
17 and data that she considered that were not contained in her
18 report.

19 MR. MIN: Your Honor, the witness testified to the
20 complete opposite. She said it was background. And that's
21 not what she relied on in issuing her opinions. Her opinions
22 were about the Singapore court's ability to address certain
23 issues, not what they would do in this specific case based
24 upon the facts. The facts of this case were not relevant or
25 what she used to support her opinions. Her opinions are what

1 is the Singapore court empowered to do? What she literally
2 just testified to was, this was background information just
3 so I know what is going on. And she then testified, I did
4 not use this, and that was not the basis of my opinions.

5 What FRCP requires is facts or data considered in forming
6 the opinions. If she did not consider these facts in forming
7 her opinions on what the Singapore courts are able to do,
8 it's not required.

9 MS. SKINNER: Your Honor, the report itself indicates
10 that she is making the opinion that the Singapore courts have
11 jurisdiction over this case, and that she reviewed data and
12 facts in forming that opinion.

13 MR. MIN: She referred to the two documents she
14 reviewed, which are the filings that we've been discussing ad
15 nauseam, which is her custody filing and his custody filing.

16 MS. SKINNER: She referred to four documents, two
17 which she referenced. One was -- the two that were
18 referenced in her report were OSG-131 and OSG-140. She
19 referenced two additional documents that she testified she
20 considered in making her opinion, which were mother's PPO
21 application and mother's maintenance application that are not
22 -- she testified are not referenced in her report.

23 MR. MIN: I don't believe she testified that she
24 considered that as the basis of her opinion. I believe she
25 testified she reviewed them. Those are two different things.

1 THE COURT: Counsel, the court notes your objection.
2 But the key is what did this witness rely upon in coming to
3 her opinion? The direct examination so far indicates that
4 her opinion was predicated upon law in Singapore and what
5 relief could be provided under Singapore law, and nothing
6 further. You're free to explore this on cross examination,
7 but your objection is overruled.

8 MS. SKINNER: I will note one more category was a
9 letter from petitioner's office. Again, she testified it
10 included facts and data that were not referred on the report.

11 THE COURT: Again, counsel, the testimony I have so
12 far indicates that they may have been reviewed, but that's
13 not the basis for which she formulated her opinion. And
14 that's the grounds for which the court overrules the
15 objection.

16 MS. SKINNER: Thank you, Your Honor.

17 THE COURT: We're close enough to the morning recess.
18 Let's take it at this time.

19 MS. SKINNER: Thank you, Your Honor.

20 MR. MIN: Your Honor, may I instruct the witness that
21 we'll take a 15-minute break, I don't think she is familiar
22 with this.

23 | (Recess .)

24 Q Ms. Kee, were there facts or data contained in the letter
25 that Ms. Redmond provided to you that you considered in

1 forming your opinion in this case?

2 A Yes. Those facts were basically that mother is allegedly
3 being abused. And then the applications for both parents
4 contesting for the child to have care and control of the
5 child, and the father to want to bring the child back. So
6 basically these were the facts, and the mother's
7 applications, as I say, in Singapore.

8 So the questions I was asked was what was the power of the
9 court in Singapore in such cases when the court has
10 jurisdiction to grant the relief to the mother. And also
11 what are the protective orders that Singapore courts can
12 afford to the mother in a case such as this.

13 Q Were there facts or data that you considered in forming
14 your opinions in this case contained in mother's PPO
15 application?

16 A Not primarily. I just used this for the background and
17 the understanding of the case. That's it.

18 Q So you gathered facts and data from the PPO application as
19 background in considering -- forming your opinion?

20 MR. MIN: Objection.

21 A Yes, that's right.

22 THE COURT: Grounds?

23 MR. MIN: Objection, she was -- I'll withdraw it.

24 THE COURT: Please continue.

25 Q Were there facts or data contained in mother's maintenance

1 application and summons that you considered in forming your
2 opinion in this case?

3 A No. As I said, it was just background information of what
4 transpired in Singapore.

5 MS. SKINNER: Your Honor, again, at this time I'd
6 like to renew my motion to strike this witness's testimony.
7 I believe the proper foundation has now been laid that this
8 witness has admitted to considering facts and data in forming
9 her opinion in this case, contained in a letter received from
10 Ms. Redmond, to which she testified before the break she did
11 not include those facts and data in her report, as well as
12 the PPO application, which she just testified that she did
13 use in forming her opinion in this case, and which she
14 testified before the break that she did not reference those
15 facts and data in her report.

16 THE COURT: Same ruling. Please continue.

17 MS. SKINNER: Thank you, Your Honor. And, Your
18 Honor, just to clarify the ruling. Does there need to be
19 more foundation laid?

20 THE COURT: No. I'm indicating, counsel, that the
21 court previously ruled that the witness is permitted to
22 testify. And that her testimony is predicated upon having
23 received that information. That was merely background. But
24 her opinion is predicated upon what law is in Singapore. I
25 don't know that that letter could provide that level of

1 detail or basis for her to formulate her opinion, in other
2 words, what happened in this case. She's testifying what the
3 law is in Singapore.

4 MS. SKINNER: As applied to the facts that she
5 considered that were not disclosed in the report. I thought
6 that there was one step further on that.

7 THE COURT: Anyway, counsel, the court overruled the
8 objection. She'll be permitted to testify. And the court
9 will deny your request to strike the testimony.

10 MS. SKINNER: Thank you, Your Honor.

11 THE COURT: Please continue.

12 Q Ms. Kee, is it part of your understanding and
13 consideration of the analysis in this case that the father is
14 present in Singapore on a ONE Pass visa?

15 A Yes. That was the background I was told.

16 Q And the ONE Pass visa is for non-Singapore citizens who
17 are working in Singapore, right?

18 MR. MIN: Objection. This is outside the scope.

19 She's not here to testify about what the ONE Pass is or is
20 not.

21 THE COURT: I will allow limited latitude, counsel.
22 Please continue.

23 Q Do you need me to repeat my question?

24 A Yes, please.

25 Q And so the ONE Pass is a visa for non-Singapore citizens

1 to be able to work in Singapore?

2 A Um, I think the ONE Pass is an expertise visa given to
3 people with talents that the Singapore government wants to
4 attract. So I'm not sure whether, you know -- how it works.
5 But this is really the visa that the Singapore government
6 gives to people who are talented and Singapore wants to
7 retain that talent.

8 Q Right. Singapore wants to receive the talent so that that
9 person lives and works in Singapore, right?

10 A I believe that this person can work in Singapore, yes.

11 Q And isn't it the case that the ONE Pass holder gains the
12 right to establish a company in Singapore, thus fostering
13 entrepreneurial endeavors in Singapore?

14 MR. MIN: Objection, relevance.

15 THE COURT: It's sustained, counsel.

16 Q If a ONE Pass holder is not working to establish a company
17 in Singapore, then they don't qualify for the ONE Pass,
18 correct?

19 MR. MIN: Objection.

20 MS. SKINNER: Your Honor, this witness's report in
21 paragraph 10 and 11 discussed the ONE Pass and dependent
22 passes, so I'd like to explore that.

23 THE COURT: Objection is overruled. Please continue.

24 A Question, again.

25 Q If the ONE Pass holder is not working to establish a

1 company in Singapore, then they don't qualify for the ONE
2 Pass any more, correct?

3 A I'm afraid I can't answer that because that's really an
4 immigration question. I've been given information that he is
5 a ONE Pass holder, and he can actually work in Singapore on
6 that basis.

7 Q Well, your report talks about the fact that you say, "The
8 father has a ONE Pass under which mother and Amar obtained
9 dependent passes."

10 A Yes.

11 Q So you made that statement without really understanding
12 what the ONE Pass was? Is that your testimony?

13 A No. They have DP, dependent passes under the ONE Pass.
14 And this was the background I was given.

15 Q Then you go on to say, "We understand that the wife and
16 the child are currently on dependent passes tied to the ONE
17 Pass," right?

18 A Correct.

19 Q And then you go on to talk about what would happen if the
20 dependent passes were canceled, right?

21 A Yes.

22 Q Then you go on to talk about a student pass and a
23 long-term visit pass. So you're giving opinions and
24 providing information about immigration issues in this
25 letter, correct?

1 A This is from the cases I do in Singapore. And this is not
2 an unusual case. We have a lot of expatriates that end up in
3 Singapore and end up divorcing here, too. These issues crop
4 up very often when a dependent's pass is canceled, then what
5 do the wife or the child do? What other kind of passes? So
6 this is information that I gathered from my work during which
7 it comes up when there is foreign couples on dependent
8 passes.

9 Q But you don't have any expertise in immigration?

10 A Yes.

11 Q You indicated, though, that a child who's enrolled in a
12 school in Singapore might be able to obtain a student pass
13 visa, right?

14 A That is correct.

15 Q That is for full-time college students though, right?

16 A Not necessarily. They can come for primary school
17 education as well. In Singapore, you know, the student
18 passes that are applied through the school by the parent
19 themselves.

20 Q Right. And that requires the child to be interviewed at
21 the Singapore embassy in Beijing, right?

22 A Singapore is not part of China. We are a small country in
23 southeast Asia. So there's no interview involved. The
24 application is done by the adult and the school. So I don't
25 believe that there's any interview involved at all.

1 Q Did you receive information on immigration issues through
2 certain governmental websites?

3 A Can you be more specific?

4 Q Well, your report attaches some printouts from a website,
5 ICA. The back of your report.

6 A Yes.

7 Q So you did review some information from governmental
8 websites about immigration issues?

9 A This is the immigration website of Singapore, yes. It's a
10 printout from the website.

11 Q Right. And you reviewed that, correct?

12 A Yes.

13 Q And you attached it to your report, correct?

14 A Correct.

15 Q And it's a governmental website, correct?

16 A Yes. But I don't believe that this is the website that --
17 that this is the document I produced.

18 Q I'm sorry, what?

19 A I don't believe this is the document I produced. Can you
20 show me and refer me to that document I produced?

21 Q Okay. So we're going to show Exhibit 109. Do you have
22 access to this portion of the report that you provided that
23 we're showing here on the screen, ICA printouts?

24 A Yes, I do.

25 Q So are you saying you did not provide these documents with

1 your report?

2 A No. I have this page in the exhibit that I put in my
3 report, yes. I do have this. This is the last exhibit.

4 Q I'm sorry, what was that?

5 A This was the last page of my exhibit -- of my report, is
6 the exhibit.

7 Q So, again, you went to a Singapore government website,
8 correct?

9 A Yes, correct.

10 Q And you reviewed information about immigration, correct?

11 A Yes.

12 Q And you --

13 A On the application of student pass.

14 Q And you included that with your report, correct?

15 A Correct.

16 Q I'm going to show you another government website. This is
17 the Ministry of Foreign Affairs of Singapore. Do you see
18 that there?

19 MR. MIN: Objection as to form, testifying to a fact
20 not in evidence.

21 THE COURT: It's overruled.

22 Q Do you see that, Ms. Kee?

23 A Yes, I see this. But this is Beijing application. So
24 it's probably from China.

25 MR. MIN: Objection. Objection. Objection. Moving

1 to strike the witness's answer. The question was, does she
2 see this.

3 THE COURT: Let's answer just the question that was
4 asked of you as to whether or not you see this particular
5 document, and that will give the court the opportunity --

6 THE WITNESS: Yes, I see a document. Sorry, Your
7 Honor.

8 THE COURT: That's fine. Please continue.

9 Q So a child who is applying for a student pass would need
10 to take an interview at the Singapore embassy in Beijing,
11 correct?

12 A This is for application for --

13 MR. MIN: Objection. Objection. Objection.

14 THE COURT: Let's clarify, counsel. Is this a
15 document the witness has attached to the exhibit, or is this
16 an independent exhibit that you wish to examine the witness
17 on?

18 MS. SKINNER: This is just a document to show -- for
19 impeachment purposes. The witness had previously testified
20 that an interview in Beijing was not required.

21 THE COURT: And you're not representing that this
22 document is a document that was attached to her exhibit?

23 MS. SKINNER: No, Your Honor.

24 THE COURT: Objection is overruled.

25 A What's the question?

1 Q So, in fact, for the child student pass visa, the child
2 would need to have an interview at the Singapore embassy in
3 Beijing, correct?

4 A This is a website for the Ministry of Foreign Affairs, and
5 this is not an immigration issue. I think the Ministry of
6 Foreign Affairs is advising for key RC China citizens who are
7 above 19 years old, what they have to do. I do not see this
8 as a sponsorship of a case like this for a student pass. And
9 this is above 19 years old. I'm not here to answer this
10 because I do not -- it's not factually relevant to this
11 current case.

12 Q In fact, you made it relevant when you included in your
13 report, in paragraphs 10 and 11, discussions about the
14 immigration status of the child and the parties, correct?
15 You talked about dependent passes, student passes, long-term
16 passes, didn't you?

17 MR. MIN: Objection as to form. Objection,
18 argumentative.

19 THE COURT: It is argumentative. Rephrase the
20 question.

21 Q You did include information and opinions relating to the
22 mother and child's abilities to seek immigration status in
23 Singapore in your report, did you not?

24 A Yes, the information to me. And this information is
25 common situations where dependent passes -- and what else can

1 be applied for in place of the Dependent Pass.

2 Q Right. And that's because the father in this case can
3 cancel the Dependent Pass under his ONE Pass visa at any time
4 he desires, correct?

5 A I am not aware. But I assume that this can be done with
6 or without consent. I am also not -- there is no information
7 on the website for this.

8 Q And in order for the mother in this case to apply as a
9 parent of a child studying on a student's pass, she would
10 need to obtain a local sponsor who is a Singapore citizen or
11 permanent resident age 21 or older, correct?

12 A I'm sorry, can you repeat the question?

13 Q In order for mother to apply as a parent of a child
14 studying on a student's pass, she would need a local sponsor
15 who is a Singapore citizen or a permanent resident age 21 and
16 older, correct?

17 A I'm not aware of this.

18 Q And the processing time for such an application can be six
19 weeks or longer, correct?

20 A I'm not aware. I'm aware in one of the cases that I've
21 dealt with the mother, who was my client, managed to get an
22 EP, an employment pass, within a short period of time. The
23 mother also got -- was able to get a short-term visit pass
24 upon cancellation of the dependent's pass. That's one of the
25 cases where my client is the mother.

1 Q But that case is not this case, and the facts are
2 different, correct?

3 A Correct. So I'm not aware of the immigration practice.
4 But in practice, I have a case at hand which my client is
5 able to obtain a short-term visit pass and an employment
6 pass.

7 Q Why did you say with certainty in your report that the
8 child would still be able to obtain a student pass when you
9 actually don't know the requirements of it?

10 A The student pass is applied for the student, the child.
11 And typically it does not need to have a sponsor. And in
12 this case, if the child is going to be studying in Singapore,
13 I believe that the father will either be the sponsor of the
14 Dependent Pass, or the father can also be the sponsor of the
15 child student pass.

16 Q But father is not a permanent resident, correct?

17 A The ONE Pass is almost equivalent to permanent residency
18 in Singapore.

19 Q But it's not, right?

20 A I say in practice it's equivalent to that, that they can
21 work and they can stay in Singapore for a long time.

22 Q That means you're saying on a ONE Pass visa, somebody who
23 has a ONE Pass can then be a permanent resident in Singapore?

24 A It's equivalent. It's not a permanent residence. It's a
25 ONE Pass, which gives a lot of benefits to the holder of the

1 ONE Pass.

2 Q But it doesn't give the same benefits of a permanent
3 residency?

4 A I believe so, but it's almost -- in practice, it's almost
5 equivalent.

6 Q It needs to be renewed every five years, correct?

7 A Yes.

8 Q And you have to meet certain qualifications for renewal,
9 correct?

10 A Correct. Residency is renewable every five years.

11 Q So you testified -- you wrote in your report that mother
12 could obtain a protective order in Singapore, correct?

13 A Yes.

14 Q But isn't it true that after a party seeks an initial
15 temporary protective order, that a hearing is scheduled?

16 A As the court mentioned, after the application.

17 Q If the respondent does not show up to that, the protective
18 order may get dismissed, correct?

19 A The respondent, no. If the respondent does not show up,
20 the court has power to issue a warrant of arrest for breach
21 or contempt of court.

22 Q And if the warrant is not executed on, the protective
23 order can get dismissed, correct?

24 A That is not correct.

25 Q So the protective order can remain? Is it your testimony

1 that the protective order can remain indefinitely without any
2 service upon the respondent?

3 A It's not an order; it's an application. So upon the
4 served application, upon the service of the summons, the
5 respondent and the applicant are supposed to go to court, as
6 I mentioned. So if the respondent does not show up, the
7 court will be able to issue a warrant for arrest. So when
8 the respondent is outstationed and not in Singapore at that
9 time, any time the respondent reaches the Singapore
10 immigration, he can be arrested at the airport or the
11 embarkation point.

12 So that is how we, in Singapore, deal with it. And it is
13 not unusual for people to be arrested at the airport and
14 brought to court for the protection order to be heard.

15 Q Ms. Kee, I understand that you're talking about a scenario
16 in which an arrest warrant is issued and executed upon. I'm
17 asking about a scenario where an arrest warrant is issued and
18 not executed upon. The protective order will be dismissed,
19 correct?

20 A No, it isn't. Because it cannot be dismissed, because the
21 application is still there.

22 Q Now, your report --

23 A And -- go ahead.

24 Q There's no question pending. Thank you.

25 You testified that there was changes to the protective

1 order definitions or rules. I believe your testimony was
2 that those were effective on January 15th of this year. Was
3 that your testimony?

4 A 16th of January.

5 Q 16, one-six?

6 A Yes.

7 Q Okay. But your report states that that's effective
8 January 2, 2025. That's on paragraph 7 in your report --
9 excuse me -- 47 in your report. So which is it, 2 or 16?

10 A It's 16. The gazette just came out last month. At that
11 time there was talk that it should be in January. So 2nd is
12 a mistake. It was in January, but it wasn't the 2nd. So the
13 16th. I confirmed the 16th of January.

14 Q So you issued your report on December 9th of 2024,
15 correct?

16 A Correct.

17 Q Are you saying that the date set for the effectiveness of
18 the new rules had not been set as of December 9th of 2024?

19 A It's not been set. And let me add why I said it was 2nd
20 of January because I'm in the working committee of the rules
21 committee of the Family Justice Rules. So as part of rules
22 review, we were discussing to see whether it would be
23 implemented by January the 2nd.

24 Q But that's not at all what your report says. You didn't
25 say that this is a working date and we're trying to figure

1 out the date. You said that it will be from January 2nd,
2 2025, forward?

3 A Yes. I confirmed it is not the 2nd of January and that
4 that was a date we were targeting to see whether we could
5 have made it on the 2nd. But that was my mistake. So that's
6 why, in the earlier part of the report, I said sometime in
7 January. I forgot to remove the 2nd on that paragraph.

8 Q But you came up with this January 2nd date indicating that
9 that was the date that the implementation would occur. But,
10 in fact, that was -- as of December 9th of 2024, that was not
11 a date certain for the implementation to occur, correct?

12 THE COURT: Counsel, your point has been made on that
13 issue. Let's move on.

14 MS. SKINNER: Thank you, Your Honor.

15 Q At this time -- this is a new law, correct, having been
16 implemented as of last week, correct?

17 A Yes, that's right.

18 Q And so there's no case law describing how the court will
19 apply this new expanded definition, correct?

20 A That's correct.

21 Q Now, you indicate in your report that the protective order
22 would be granted if family violence has been found to have
23 been committed, correct?

24 A Correct.

25 Q Within what timeframe must the violence have been

1 committed?

2 A I don't believe that any specific timeframe. But, of
3 course, if there is going to be a long delay, then the
4 question is whether it was necessary or will be necessary to
5 issue such protection order.

6 So generally the report will be based on an event, and
7 sometimes the harassment continues, even if the person is not
8 in Singapore. And in addition to that, may I add that we
9 also have another legislation --

10 Q No, Ms. Kee. I haven't asked about that. Ms. Kee, I'm
11 going to stop you there. I'm not asking about other
12 legislation. I'm talking about the protective order. And my
13 question was in what timeframe, must that be committed? And
14 you answered, there is no specific timeframe, correct?

15 A Yes. That's right.

16 Q Okay. What is the petitioning party's burden of proof to
17 prove that abuse or family violence has happened?

18 A So the burden of proof is to show that violence happened
19 as defined by charter, by the charter, meaning the women's
20 charter, which is the governing legislation in Singapore.
21 And the court will then be able to decide, first, whether
22 such violence did happen. The second thing the court would
23 decide is whether it was necessary to issue the protection
24 order for the protection of the person.

25 Q So my question is about a burden of proof. What does the

1 petitioning party have to show, to what degree of certainty,
2 that family violence occurred?

3 A It's a question of fact that such violence has occurred.
4 So typically if there is physical violence, usually medical
5 reports, sometimes even communications. Any evidence that's
6 relevant, the court will consider. Like documentary
7 evidence, medical reports, psychiatry reports, anything that
8 is relevant to prove that the violence has occurred.

9 Q You testified that part of kind of the umbrella of the
10 protection order is that the court can exclude the party from
11 a home, correct?

12 A Correct.

13 Q But the parties have to have been living together at that
14 time in order for the court to make that order, right?

15 A Correct. It could be the matrimonial home, yeah.

16 Q Yeah. Thank you.

17 You talk about, in your report a PCHA, Protection from
18 Harassment Act. In that case the court can order the victim
19 of harassment to engage in counseling or mediation with the
20 perpetrator, correct?

21 A I'm sorry, can you refer me to the section where I said
22 that?

23 Q Do you not recall or do you not have testimony without
24 being able to review your report? Is that your statement?

25 A You said that the court can order the parties to go for

1 counseling?

2 Q Under the Protection from Harassment Act, the court can
3 order the victim of harassment to engage in counseling or
4 mediation with the perpetrator, correct? Do you have an
5 answer without being able to review your report, Ms. Kee? Or
6 do you need to read it in order to answer my question?

7 A I need to review it. Because I believe the counseling is
8 usually done for the respondent and not so much the victim.

9 Q Okay. Then I'll refer you to paragraph 58, Ms. Kee.

10 A Did you say 58?

11 Q Yes, 58.

12 A Yes, I see that.

13 Q Do you need me to repeat my question?

14 A Yes, I see that. Yes. Yes, the court can refer the
15 person or the victim to attend a counseling obligation.

16 Q Okay.

17 MS. SKINNER: I have no further questions for this
18 witness.

19 THE COURT: Redirect.

20 MR. MIN: No redirect.

21 THE COURT: Any objection to this witness being
22 excused by petitioner?

23 MR. MIN: No, Your Honor.

24 THE COURT: Counsel? By the respondent?

25 MS. SKINNER: Excuse me, Your Honor.

1 THE COURT: The court previously ordered that her
2 reports are supposed to be provided to counsel for the
3 defendant. And I'll ask the witness, approximately how much
4 time do you believe it will take to transmit the reports?

5 MR. MIN: We have two documents transmitted by her
6 office already. One is on the topic of relocation. So I
7 think a one-page summary article, in a bigger article,
8 country by country. And she wrote the section on Singapore.
9 We have that. And then we have an article on prenuptial
10 agreements. And I'm happy to send that on. And we're
11 waiting for one more.

12 THE COURT: To whom will you provide that, counsel?

13 MR. MIN: We just received it and I think we're
14 compiling it.

15 THE COURT: I'm trying to speed up having a copy
16 made, unless you have a copy machine back in the conference
17 room, which I doubt, counsel. Can you transmit that document
18 to our in-court deputy?

19 MR. MIN: Of course.

20 THE COURT: Let's do that. And as soon as that's
21 done, we'll provide that to counsel for the respondent. That
22 will speed up the process for review and minimize the time
23 this witness has to be available.

24 So Ms. Kee, you're not free. You haven't satisfied your
25 obligation to this court. Upon receipt and review of your

1 reports by counsel for the respondent, you may be subject to
2 recall to continue your examination. Do you understand?

3 THE WITNESS: Yes, I do.

4 THE COURT: Counsel for the petitioner, I trust that
5 you'll be able to communicate with the witness when she'll be
6 required to report back for continued testimony.

7 MR. MIN: Of course, Your Honor.

8 THE COURT: Okay. All right. Then we'll stop with
9 this witness. You can terminate your call now.

10 Your next witness, counsel for the petitioner?

11 MR. MIN: We will be calling the petitioner, on short
12 rebuttal.

13 THE COURT: Okay. Please step forward.

14 MR. MIN: He is Zoom, Your Honor.

15 THE COURT: Yes. He's not been excused, so he's
16 still subject to being under oath. We don't have to reissue
17 the oath.

18 PRASANNA SANKARANARAYANAN

19 Having previously been sworn, testified further as follows:

20 DIRECT EXAMINATION

21 BY MR. MIN:

22 Q Hello. I'm going to ask you a few brief questions.

23 Did you ever ask your wife to have sex with other men?

24 A No.

25 Q Has she ever raised that to you as a concern, prior to

1 recent events?

2 A No.

3 Q Meaning -- "recent events" meaning this litigation.

4 A No.

5 Q Have you ever had anal sex with your wife?

6 A No.

7 Q Have you ever forced your wife to have sex with you?

8 A No.

9 Q Did your wife ever raise the issue of anal sex to you,
10 prior to a hearing in this litigation?

11 A Absolutely not.

12 Q Did you ever put your hands on your wife's neck or
13 shoulders during an argument?

14 A No.

15 Q Did she ever raise that issue with you prior to this
16 litigation? I'm sorry, did you answer?

17 A No, she did not.

18 Q Did you ever shake your son violently?

19 A No.

20 Q Did you ever shake your son because your wife refused to
21 have sex with you?

22 A Absolutely not.

23 Q Did you ever hit your son on the back?

24 A Yes.

25 Q Did you ever punch your wife in the chest?

1 A No.

2 Q Have you ever left any bruises or marks on your son, after
3 corporal punishment?

4 A No.

5 Q Did you ever kick your wife while she was sleeping because
6 she refused to have sex with you?

7 A No.

8 Q Did you file taxes in the United States in 2023?

9 A No.

10 Q How about 2024?

11 A No.

12 Q Did you ever threaten your wife by saying that you would
13 destroy her?

14 A No.

15 Q Did you ever threaten your wife by telling her you would
16 leave the family on the streets?

17 A No.

18 Q Did you ever threaten to revoke your wife's Dependent
19 Pass?

20 A No.

21 Q Did you ever threaten to distribute pornographic videos or
22 materials of her?

23 A Absolutely not.

24 MR. MIN: No further questions, Your Honor.

25 THE COURT: Cross examination.

1 MS. SKINNER: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MS. SKINNER:

4 Q You testified just now that you never shook your child
5 violently. Have you ever shook him?

6 A Have I shaken -- I have shaken my child to put him to
7 sleep.

8 THE COURT: Can you repeat your answer, sir?

9 A I have shaken my child to put him to sleep. I put him to
10 sleep every day as a baby. I fed him. And I sung to him.
11 Yes, I shook him.

12 Q You testified that you never left bruises or marks on your
13 son, right?

14 A Yes.

15 Q So after each occasion that you pinched your son, did you
16 inspect his body for the -- to discover whether there was a
17 mark on him?

18 A No, because it was never that strong. I knew it; I didn't
19 need to check it.

20 Q But my question is not what you knew or whether -- how
21 strong it was. My question is whether you checked his body
22 after the times that you pinched him.

23 A I already answered your question.

24 Q Is the answer "no"?

25 A Yes. No, I did not. And I told you why.

1 Q I didn't ask why; I just asked whether you did or not.

2 So now you testified that you did not threaten to
3 distribute pornographic images of your wife, right?

4 A Correct.

5 Q But you did distribute video and audio recordings of your
6 wife to your brother, correct?

7 MR. MIN: Objection, outside the scope of direct.

8 THE COURT: It's overruled.

9 A Yes.

10 Q It's a yes or no.

11 A I did not distribute it. Like, distribute means I give
12 it. No, I did not distribute it.

13 Q So you're taking issue with the word "distribute." Okay.
14 Did you give, transfer or provide to your brother audio and
15 video contained from hidden camera devices that contained
16 your wife?

17 MR. MIN: Objection. This was asked and answered on
18 cross examination.

19 THE COURT: I understand. The door was opened,
20 counsel, on direct examination of your client.

21 MR. MIN: I meant to say cross examination when he
22 was initially called.

23 THE COURT: It's still opened sufficiently for
24 counsel to probe at this time.

25 Please continue. Reask the question.

1 A I don't believe that there were any images of my wife
2 given to him.

3 Q So your testimony is that you did not provide any video
4 images of your wife to your brother from the hidden cameras?

5 A Yes.

6 Q And what about video of your son?

7 A I do not believe I did that. No.

8 Q You testified that you did not force sex on your wife; is
9 that right?

10 A Absolutely.

11 Q Okay. So didn't you tell her, though, that "Babes, any
12 issue you have in life, you always seem to attack or refuse
13 sex"?

14 A I don't know the context of what you're stating. Out of
15 context, I don't know whether I said that to her or not.

16 Q You don't know whether you said that to her?

17 A Yeah. I don't know if I said that to her.

18 Q And do you know whether you said, "That's really not cool
19 with me"?

20 A I don't know. If you just want to --

21 THE COURT: Could you repeat your answer, sir?

22 A I do not know that I said what she's saying.

23 Q Didn't you say to her, "It's a need that I have, and I
24 think I have a right to have that need met"?

25 A Same answer.

1 Q You don't recall saying that, or you're saying I'm taking
2 it out of context?

3 A It could be either.

4 Q But do you recall saying that?

5 A I do not recall saying that, and I do not recall the
6 context in which you are quoting these things.

7 Q So did you say to her that refusing the act also shakes
8 the foundation of the relationship?

9 A If you want to show it to me.

10 Q Okay. I'm showing you now Exhibit 327, Page 25, a
11 communication made by Pras on December -- February 23, 2023.

12 A Yes, I see the highlighted portion.

13 Q Okay. So didn't you say to your wife, "Babes, any issue
14 you have in life, you seem to always attack or refuse sex."
15 Didn't you say that to her?

16 A Yes.

17 Q Then you said to her, "That's really not cool with me."
18 You said that, right?

19 A Yes.

20 Q And you said, "It's a need that I have, and I think I have
21 a right to have that need met." You said that to her, right?

22 A Yes.

23 Q "And refusing that also shakes the foundation of the
24 relationship." You said that to her, right?

25 A Yes.

1 Q By refusing "that," you're talking about her refusal to
2 have your need met of sex, right?

3 A Yes.

4 Q Didn't you ask your wife, "What are your real thoughts on
5 an open marriage and multiple sexual partners?"

6 A Do you want to quote it to me? Do you want to show it to
7 me?

8 Q No, I'm not going to show it to you. I'm asking you this.
9 Didn't you ask your wife, "What are your real thoughts on
10 open marriage and multiple sexual partners?"

11 A I don't recall.

12 MS. SKINNER: Your Honor, may we have a moment?
13 We're attempting to pull up some videos that would
14 contradict.

15 THE COURT: We'll have a stretch break. My in-court
16 deputy advised the court that one of the documents that was
17 transmitted was approximately 300 pages. Is that the same
18 document? Because the witness testified the report was a
19 matter of pages, and you represented ten or less. So is that
20 the correct document that was sent?

21 MR. MIN: Is this the child relocation one? I think
22 that's what I had referenced that she had done one page on
23 Singapore. That's in a broader article where they go country
24 by country about relocation laws in their country. So my
25 representation was she had done the one page on Singapore.

1 So the article is all of the countries, not just her part of
2 it. It's the entire publication in which she does the one
3 page.

4 THE COURT: Can you have her resend just the pages
5 that are relevant to what she is the author of? We're not
6 going to produce 300 pages.

7 MR. MIN: Oh, sure. I did it just for the
8 completeness so the court could see the whole publication
9 instead of just the excerpt that she did.

10 It's actually more like five pages. But we'll extract
11 those five pages, or so.

12 THE COURT: And resend that.

13 MR. MIN: Yeah.

14 MS. SEIPEL: Your Honor, would it be okay if I step
15 out to try to make this video play? And I'm hoping to make a
16 one-minute call.

17 THE COURT: Can your co-counsel continue with her
18 examination of the witness?

19 MS. SKINNER: Your Honor, I believe that that really
20 concludes my questioning. I would just appreciate the
21 ability to be able to locate this one piece of evidence and
22 present it to the witness.

23 THE COURT: All right. I'm going to stay on the
24 bench, counsel. You're free to step outside. And I'll stay
25 here with the expectation that you're going to come right

1 back.

2 MS. SKINNER: Thank you, Your Honor.

3 (Recess.)

4 THE COURT: Ready now, counsel?

5 MS. SKINNER: We have evidence we want to show the
6 witness on this computer. We're just trying to work to be
7 able to upload it to the one that's visible to everybody. So
8 I think we just need maybe another minute or two to work that
9 out.

10 THE COURT: Do we have the next witness ready?

11 MR. MIN: There's no more witnesses for the
12 petitioner.

13 THE COURT: Is there a witness from respondent?

14 MS. SEIPEL: Yes, we would be calling Dr. Poppleton.

15 MR. MIN: We'd be objecting to that. Does the court
16 want to hear argument on that?

17 THE COURT: Let's do one thing at a time. Counsel,
18 how much more time do you need? It's about quarter to 12.

19 MS. SEIPEL: Maybe five or ten minutes.

20 THE COURT: What's your argument on Dr. Poppleton?

21 MS. SEIPEL: It is our burden of proof to prove grave
22 risk of harm and mature child exceptions to return. When it
23 is our burden of proof, we get to put on a rebuttal case.
24 And so I am entitled to call Dr. Poppleton to rebut any of
25 the things on my burden of proof as to what Mr. Min's experts

1 testified to.

2 THE COURT: Counsel, your objection?

3 MR. MIN: Yes, Your Honor. I mean, first -- on two
4 grounds. Number one, rebuttal is for the purpose of
5 rebutting unforeseen testimony or circumstances.

6 Dr. Poppleton has had rebuttal reports by Dr. Favaro and Dr.
7 Day for quite some time now. He's testified his opinion to
8 some of those reports in his direct testimony. That was his
9 opportunity to rebut or to testify about their reports.

10 Second, FRCP 26, which counsel has repeatedly cited to,
11 requires advance disclosure of any opinions. So if he's
12 trying to offer some sort of opinion or information now that
13 he has not given, or knowledge of, then that would be in
14 violation of FRCP 26. He's not designated as a rebuttal
15 expert. He had the opportunity to testify after reviewing
16 their rebuttal reports and disclosures. And to the extent he
17 did so, he has testified to that.

18 If there's something unforeseen that counsel could point
19 to or some sort of testimony that they believe is true
20 rebuttal, then I'd like to hear an offer of proof on that.
21 But simply calling him because they want him to respond to
22 Dr. Favaro and Dr. Day's testimony, which was in line with
23 their report, we believe is insufficient.

24 THE COURT: Counsel, can you give with pinpoint
25 accuracy exactly what Dr. Poppleton is going to testify

1 about, to your knowledge?

2 MS. SEIPEL: He will be commenting on specific areas
3 that Dr. Day and Dr. Favaro testified to.

4 THE COURT: And those specific areas, counsel?

5 MS. SEIPEL: Dr. Favaro and Dr. Day critiqued
6 Dr. Poppleton, the scope of his evaluation, and also
7 commented on the scope of their own assessment in this case.
8 So he will be testifying regarding scope. I have questions
9 for him regarding testing. There was testimony about
10 Dr. Favaro administering a test on the child called the Child
11 Behavioral Checklist, but he did not score that checklist.
12 Dr. Poppleton has now scored that checklist, which says that
13 the child is depressed and anxious. That is proper rebuttal
14 testimony on a matter that is, again, our burden of proof.

15 THE COURT: Counsel, have you provided notice of this
16 brand-new opinion to counsel for the petitioner?

17 MS. SEIPEL: Dr. Poppleton -- I did not provide any
18 notice, Your Honor, to answer that question. But
19 Dr. Poppleton is not going to be offering an opinion.

20 THE COURT: I thought you just said he was going to
21 testify to the results of another test that he administered.
22 Isn't that an opinion?

23 MS. SEIPEL: Dr. Poppleton did not administer any
24 test. He took the test that Dr. Favaro administered, and
25 it's a matter of calculation. Dr. Favaro testified that he

1 didn't calculate it. Dr. Poppleton did the calculation of
2 the test that Dr. Favaro did.

3 THE COURT: Isn't that rendering a new opinion?

4 MS. SEIPEL: No, Your Honor. I don't believe
5 Dr. Poppleton saying, "This is what the test is," that's
6 testifying about results of something. That's not
7 Dr. Poppleton saying, "It's my opinion the kid is depressed."
8 That's Dr. Poppleton saying, "This test, administered by
9 father's expert in the case, shows that the child is
10 depressed."

11 THE COURT: All right. Anything further, counsel?

12 MR. MIN: I mean, Your Honor, I think that's clearly
13 an opinion. And, again, this is clearly everything he could
14 have testified in his direct. The circumstances of rebuttal
15 testimony are clear. My client has testified on his case.
16 He also testified on the grave risk that we could have
17 reasonably anticipated. Dr. Poppleton was in that same
18 situation. If he did not take that opportunity to --

19 THE COURT: Counsel, slow down.

20 MR. MIN: If he did not take that opportunity beyond
21 his direct, then that's whatever decision they made on that.
22 And, again, what Your Honor, I think, has alluded to, clearly
23 they're trying to offer him to render a new opinion that we
24 have been provided no notice of. And our experts would have
25 an opportunity to, what, then rebut that, and we would keep

1 going on in circles forever.

2 THE COURT: The court is going to allow limited
3 latitude and permit a degree of testimony, counsel. If I
4 think it's going far afield, I'll entertain an objection
5 regarding the scope of your examination. I don't believe the
6 fact that a witness has testified, that they have to exhaust
7 all of their testimony and preclude it thereafter from
8 providing additional testimony just because they've already
9 alluded to it in the prior testimony.

10 So with that, are you ready now, counsel?

11 MS. SKINNER: Yes, Your Honor. The evidence is on my
12 client's computer. She has asked the court staff for
13 permission to enter into the Zoom. So once the court has
14 admitted her, she'll be able to share that on her screen.
15 And I'd like to continue my cross examination.

16 Your Honor, I'm ready to resume. Thank you for your
17 patience.

18 THE COURT: Please proceed.

19 Q Who is in this video screen?

20 A I think it's my wife.

21 Q And what recording is this?

22 A This is from the camera in the house.

23 Q The hidden camera that you placed in the house?

24 A Yes.

25 Q What location in the house is this?

1 A It is in the computer charging plug.

2 Q In what room?

3 A The bedroom.

4 THE COURT: Which exhibit number, counsel?

5 MS. SKINNER: Your Honor, this is not an exhibit.

6 This is for impeachment purposes at this point. Thank you,
7 Your Honor.

8 THE COURT: All right.

9 Q And so you did capture and save video recordings of your
10 wife, correct?

11 A Yes.

12 Q And you provided those video recordings to your brother,
13 correct?

14 A No.

15 Q You testified earlier that you provided recordings in
16 order to transcribe them to use as evidence against her, did
17 you not?

18 A Yes.

19 MS. SKINNER: I have no further questions for this
20 witness.

21 MR. MIN: I do have probably like five- to
22 eight-minutes of rebuttal. Should I start now?

23 THE COURT: Let's do it now, counsel.

24

25

1 REDIRECT EXAMINATION

2 BY MR. MIN:

3 Q You testified on cross that you would shake your child
4 while you were putting him to sleep, and you made some
5 physical gestures; is that correct?

6 A Yes.

7 Q Were you shaking him to punish him or in an aggressive
8 manner, or what was the reason for shaking him while you were
9 putting him to sleep?

10 A Well, after I feed him milk, he needs to be burped and
11 then soothed to put him to sleep.

12 Q Burped and then what was the word you used?

13 A Soothed. He needs to be calmed down. Soothed.

14 Q So when you used the word "shaking" in this context,
15 you're using the word shaking in a manner to soothe your
16 child?

17 A Yes.

18 Q Okay. Would you describe the shaking to be violent or
19 aggressive?

20 A No.

21 MS. SKINNER: Objection, asked and answered.

22 THE COURT: That's overruled.

23 Q So other than this description of shaking your child while
24 putting him to sleep, did you otherwise shake your child?

25 A No.

1 Q I'm going to direct you to an exhibit counsel asked you
2 about, Exhibit 327, Page 25. Was your and your wife's sexual
3 relationship a source of conversation during the course of
4 your marriage?

5 A Yes.

6 MS. SKINNER: Objection, asked and answered.

7 THE COURT: It's overruled.

8 Q What was your answer?

9 A Yes.

10 Q Did you express -- did you ever express to your wife that
11 you were unhappy with the nature of your sexual relationship?

12 A Yes.

13 Q Did you ever tell your wife that you wished you and your
14 wife had more sex?

15 A Yes.

16 Q Was having sex with your wife something that you believed
17 was important to your relationship?

18 MS. SKINNER: Objection, relevance.

19 THE COURT: Sustained, counsel.

20 MR. MIN: Well, Your Honor, I think it goes to the
21 context and purpose of this message, which was asked on
22 cross.

23 THE COURT: I'll allow limited latitude. You were
24 objecting to the same thing of Dr. Poppleton coming back in
25 rebuttal testimony. It seems like it is the same category;

1 he could have testified and has testified about the exact
2 same thing previously.

3 MR. MIN: Well, I would agree with that except for
4 the fact that the door was opened on cross, and I'm simply
5 trying to address these pointed questions that were asked on
6 cross examination.

7 THE COURT: I'll allow limited latitude. Repeat your
8 last question.

9 MR. MIN: If I could just ask the court reporter to
10 read back the last question that I asked.

11 (The last question was read by the court reporter.)

12 Q Was having sex with your wife something that you believed
13 was important to your relationship?

14 A Yes.

15 Q Did you -- again, looking at this message, what did you
16 mean that "Refusing that also shakes the foundations of our
17 relationship"?

18 A Because there were problems with the marriage, and we were
19 trying to fix it. We were trying to work on it, fix it. And
20 I was in this case saying that the relationship is -- you
21 know, you're not working on fixing this.

22 Q Did you ever decide, beyond complaining to your wife or
23 addressing the lack of sexual intimacy in your relationship
24 to your wife, ever force her to have sex against her will?

25 A No.

1 MR. MIN: No further questions, Your Honor.

2 THE COURT: Further cross?

3 MS. SKINNER: No, Your Honor.

4 THE COURT: All right. When we return back at 1:30,
5 Dr. Poppleton will be testifying. And he's the last witness
6 to testify from the respondent's perspective, correct?

7 MS. SEIPEL: Yes.

8 THE COURT: I take it there are no additional
9 witnesses or testimony on behalf of the petitioner, correct?

10 MR. MIN: I can't commit to that because I don't know
11 what Dr. Poppleton is going to say. I've heard some offer of
12 proof to the extent he's going to score a test that was done
13 by Dr. Favaro. I may want to recall Dr. Favaro or Dr. Day.

14 THE COURT: Then the only other witness I expect is
15 the Dr. Kee regarding the reports. Have all the reports that
16 she cross-referenced or has authored in the time period
17 requested been produced now to counsel for the respondent?

18 MR. MIN: No, Your Honor. We're waiting on one more.

19 THE COURT: Counsel, you agree that you have two?

20 MS. SKINNER: We'll rely on the representation. I
21 haven't had an opportunity to check.

22 THE COURT: Has co-counsel checked?

23 MS. SEIPEL: I haven't checked. I'm pulling up my
24 e-mail right now.

25 THE COURT: Let's make sure it happens. I'm not

1 going to sit here and wait because I have another meeting to
2 go to. All right. Thank you.

3 We'll be in recess until 1:30.

4 (Recess.)

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1 AFTERNOON SESSION

2 THE COURT: Good afternoon. Please be seated.

3 First of all, I just want to inquire, has counsel for the
4 respondent had the opportunity to review the reports that
5 were prepared by Dr. Kee?

6 MS. SKINNER: We had a brief opportunity to review
7 three publications that were forwarded to us over the lunch
8 break. I didn't have so much of an opportunity to be able to
9 compare my notes and the testimony of the witness to any
10 portions of the publications where they might have
11 contradicted one another, which is what I had hoped to do.

12 But at this point we just will renew our motion to have
13 the witness stricken, because of failure to comply at the
14 outset with the rule regarding disclosure.

15 THE COURT: Well, in the brief opportunity you did
16 have to review, did you see any glaring inconsistencies or
17 basis for impeachment that would justify having the witness
18 return to the witness stand for purposes of cross
19 examination?

20 MS. SKINNER: None glaring that I can bring to the
21 court's attention.

22 THE COURT: Taking away the glaring description, did
23 you see anything that would justify a basis for an
24 impeachment cross examination?

25 MS. SKINNER: If my memory serves, I believe the

1 witness testified about the ability for parties to seek an
2 order in Singapore to relocate in a custody case, and that
3 was touched on in one of the articles that I could go into
4 some questioning on.

5 THE COURT: All right. Then we'll have the witness
6 return back to the witness stand and conclude that
7 examination.

8 MS. SKINNER: Thank you, Your Honor.

9 THE COURT: All right.

10 All right. Counsel, you completed your examination of
11 your client and cross examination as well.

12 MR. MIN: Yes, Your Honor.

13 THE COURT: The question is, is Dr. Poppleton going
14 to get back on the witness stand?

15 MR. MIN: We reserved our right to recall either
16 Dr. Favaro or Dr. Day, but until we hear Dr. Poppleton, we
17 won't know.

18 MS. SEIPEL: I will call Dr. Poppleton to the stand.

19 THE COURT: You're still under oath, sir.

20 LANDON POPPLETON

21 Having previously been sworn, testified further as follows:

22 DIRECT EXAMINATION

23 BY MS. SEIPEL:

24 Q Dr. Poppleton, there were -- there was a lot of testimony
25 over the last couple of days about the scope of your work in

1 this case and whether or not you conducted a best interests
2 evaluation. What is your understanding was the scope of your
3 work?

4 MR. MIN: Objection, improper rebuttal.

5 THE COURT: That's sustained, counsel. It's
6 sustained because I heard that testimony.

7 Q Father's expert yesterday mentioned an instrument called
8 an "HCR." What is that?

9 A It's a tool that guides you through an evaluation process
10 where you can look at empirically based risk factors for
11 violence risks.

12 Q It looks for violence risks? Would that be part of a
13 domestic violence risk assessment on father?

14 A It could be.

15 Q Did you hear Mr. Day's testimony yesterday that she
16 believed you should have done this?

17 A I believe that's what I heard her saying.

18 Q Was that an option for you?

19 A No. I couldn't do the evaluation that they're claiming,
20 and it wasn't an option for me to do that. I would have to
21 get consent through counsel to do something like that.

22 Q Dr. Day yesterday went through four components of what she
23 called a risk assessment of a child. Do you recall hearing
24 that?

25 A I do.

1 Q Do you recall what she says that included?

2 A I believe it included things like -- I should probably get
3 closer to the microphone for you -- attachment, cognitive
4 level. I think it had things related to resiliency and a
5 child's emotional regulation, if I remember right. That's
6 what those were. I might be off on one of those.

7 Q Do you agree with that?

8 A No, I don't agree with that at all.

9 Q Why not?

10 A Um, I think the follow-up questions about where something
11 else would fit into that was very appropriate. And that is
12 that the issue is related to grave risk as it pertains to
13 domestic violence. And so domestic violence, those might
14 relate to maybe the sensitivity of a child, but without the
15 actual capacity question of a parent related to the issue
16 before the court, it's incomplete. And that would be an
17 essential piece of that in a case like this.

18 Q Dr. Day referenced, in her testimony, what she refers to
19 as a "standard of care."

20 A Sure.

21 Q And she referenced the APA forensic guidelines. Do you
22 recall that testimony?

23 A I do, yeah.

24 Q Do you also recall her talking about AFCC parenting plan
25 evaluation guidelines?

1 A Yeah, I do recall that.

2 Q Are you familiar with both of these guidelines?

3 A Yeah. I'm reasonably familiar with both.

4 Q Are these guidelines applicable to your work in this
5 matter?

6 A So the AFCC guidelines are not applicable to the work in
7 this matter. I think there was an attempt to try to pull
8 pieces from that to make it so. But it's very clear in their
9 kind of opening statements that they're not intended for
10 other purposes outside of that. Those are for the
11 development of parenting plans. There's things in Dr. Day's
12 report around parent/child observations and procedures
13 related to evaluations that I think could have a place in a
14 case like this. But I testified very clearly before that,
15 that if I was to -- if I was examining the mom and the child,
16 I'd be soliciting information as to what they had to offer
17 and then providing information to the court. And I've been
18 very clearly -- through this whole thing, I have not done an
19 evaluation that would result in findings or an opinion,
20 despite the attempt of Dr. Day to try to paint that as if
21 that is what I was doing.

22 Q Does Dr. Day opining that you violated inapplicable
23 guidelines put her in violation of these guidelines?

24 A It would, under those guidelines.

25 Q How so?

1 A Well, she needs to take care to be careful to -- and I'll
2 use her terms -- to look at the four corners of my evaluation
3 for what I actually was doing and not paint a picture of
4 something different than that to prop that up for criticism.
5 And I think if that was what I was doing, I was doing a full
6 evaluation that would lend itself to findings and opinions,
7 and that might be appropriate.

8 But this critique that she provided would be more
9 appropriate for maybe a critique of the work that Dr. Favaro
10 did or offered up as to what he did, not what I did.

11 I was very clear in my opening paragraph and very
12 consistent through this that I was providing information to
13 the court only on things that might be helpful, and it was
14 not an evaluation.

15 Q Did you hear Dr. Favaro's testimony yesterday regarding
16 the Child Behavior Checklist?

17 A I did.

18 Q And is it your understanding that Dr. Favaro had father
19 answer and complete that checklist?

20 A That is my understanding from reading his description of
21 that and listening to his testimony.

22 Q Do you recall Dr. Favaro's testimony that he did not score
23 the Child Behavior Checklist?

24 A I did. And I recall testimony about how -- that somehow
25 his testing made it more appropriate work product. But it

1 actually has probably more problems as a result of him not
2 scoring it as a result of that.

3 Q Have you had an opportunity to review the checklist that
4 was contained in Dr. Favaro's file?

5 A I have, yes.

6 Q Did you have an opportunity to score it?

7 A Yeah, I scored it.

8 Q What does that process involve?

9 A There's software that's produced by the company that
10 produces this test that we use to score that. And it's
11 basically taking and plugging in the information on the
12 checklist into that to see how those things line up with the
13 norms that are owned by the testing company.

14 Q What did you discover in scoring this?

15 MR. MIN: Objection, outside the scope of rebuttal.

16 Your Honor. I'd also ask for a quick voir dire.

17 THE COURT: You may.

18 MR. MIN: Thank you.

19 VOIR DIRE EXAMINATION

20 BY MR. MIN:

21 Q Dr. Poppleton, when did you first review the Child
22 Behavior Checklist?

23 A I believe it came in part of -- through discovery. And I
24 couldn't tell you an exact date on when I first reviewed it.
25 But it probably would have been around the first of this

1 calendar year.

2 Q So before you testified in this case?

3 A Certainly before I testified, yes.

4 Q So you would agree that you had an opportunity to score
5 the test before your testimony on January 8th, yes or no?

6 A Yeah, absolutely. Yeah.

7 Q Did you score it before January 8th?

8 A I scored it, I believe -- well, I can answer your question
9 a lot easier than the way I'm thinking about it. But, yeah,
10 I had this scored before I testified on January 8th, if
11 that's what the point of your question is.

12 Q In general, the Child Behavior Checklist is supposed to be
13 filled out by both parents, correct?

14 A Well, it depends on how you're using it and what question
15 you're attempting to answer. But if we're going back to talk
16 about maybe a full family evaluation under a best-interest
17 framework, maybe something that would be akin to those AFCC
18 guidelines that have been talked about for parenting plan
19 evaluations, yes, it would be scored by both parents.

20 But this test is not designed specifically to be scored by
21 both parents. It's used in a lot of different capacities.

22 Q Well, you use both parents to cross-check the information
23 that's being provided to you, correct? Is that one of the
24 reasons?

25 A That's one way it could be used. That's within the realm

1 of possibility, certainly.

2 Q And there's also a teacher checklist that goes along with
3 this Child Behavior Checklist?

4 A There is a teacher checklist. There is also, I believe, a
5 self-report checklist at a certain age.

6 Q For children?

7 A I'd have to go look at the cutoffs, but I think, off my
8 memory, don't hold me to this, I believe it starts at 11.

9 Q So at age 11 the child would do a self-report checklist,
10 the teacher does a checklist, and two parents do checklists?

11 A It depends on the circumstances. So that's a question
12 that I can only say, it depends. I think in -- usually in
13 family studies, if you're doing a full best interests one,
14 which this is not typically, you would at least have both
15 parents do it.

16 MS. SEIPEL: Your Honor, at this point I'm going to
17 object. He can ask these questions on cross examination.

18 THE COURT: I would agree, counsel. We've gone
19 beyond the voir dire purpose.

20 MR. MIN: Well, I think the issue is whether or not
21 this witness is qualified to answer the question that was
22 posed before him about the Child Behavior Checklist, and if
23 it's inappropriate or insufficient for him to answer that
24 question based upon what process he employed to get to that
25 result, then I believe that's proper voir dire.

1 I mean, Your Honor, I think, also, I would renew my
2 argument from before. This witness just testified that he
3 was able, and he did score this test before his testimony on
4 direct on January 8th. He was aware of it. It was mentioned
5 in Dr. Favaro's report. This is not proper rebuttal, then.
6 This was foreseen. This was foreknown. This was not
7 something that came out on Dr. Favaro's testimony yesterday,
8 and that's what he's rebutting to.

9 So Dr. Poppleton had ample opportunity to provide this
10 information on direct. This is not proper rebuttal, Your
11 Honor.

12 MS. SEIPEL: It is proper rebuttal because at the
13 time of Dr. Poppleton's testimony yesterday, we had asked
14 this court countless times to exclude Dr. Favaro. That
15 decision had not been made as to whether or not he was going
16 to testify. His report had not been admitted into evidence
17 at that time. So it was not proper for us, when
18 Dr. Poppleton got on the stand yesterday, to go and ask him
19 about a checklist that was not in evidence. The witness who
20 administered that checklist had not testified. And a report
21 from an expert referencing that checklist had not been
22 admitted into evidence. It is absolutely within the realm of
23 proper rebuttal.

24 MR. MIN: Your Honor, the checklist is still not in
25 evidence, so I'm not sure what counsel's argument is with

1 respect to the checklist being in evidence or not being in
2 evidence. Your Honor, that checklist is not part of the
3 evidentiary record.

4 THE COURT: Well, there's testimony about it,
5 counsel, in detail. And it's before the court. So the
6 objection is overruled.

7 Please continue.

8 MS. SEIPEL: Thank you, Your Honor.

9 DIRECT EXAMINATION (Cont.)

10 BY MS. SEIPEL:

11 Q Dr. Poppleton, what did you discover?

12 A I discovered something different than what Dr. Favaro
13 talked about in his report. And that is that this kid --
14 according to the responses that are reported to be by father,
15 puts this child at a significant level for anxious/depressed
16 and withdrawn/depressed. And that would be considered in the
17 clinical range.

18 Now, before I get this on rebuttal of this rebuttal, that
19 is one data point that needs to be considered. And in the
20 context of a -- usually a larger evaluation that is done,
21 like an evaluation that Dr. Favaro was maybe attempting to do
22 in this particular case.

23 So with that said, it really just results in a finding of
24 improper use of this test.

25 Q Did you hear Dr. Favaro testify yesterday that a child who

1 is depressed would be more vulnerable to a risk of harm?

2 A I did hear him say that.

3 Q Do you agree?

4 A I think I testified to that on my first -- what word do I
5 want to use? The first time I was examined here, I'll leave
6 it at that. I think I said the same thing, generally
7 speaking. Specifically, I can't say. But generally
8 speaking.

9 Q Did you hear Dr. Favaro's testimony yesterday regarding
10 protective gatekeeping?

11 A I did, yeah.

12 Q And what is your position on this?

13 A So the gatekeeping construct has many facets to it. It's
14 not a simple, like, yes-or-no question in all cases. And
15 there's usually a formulation that goes behind it. I differ,
16 I believe, from him, if I understood his testimony
17 correctly -- but there were times I had trouble following it
18 -- and that is that if you have a mother who's engaged in
19 some level of that -- and I don't know that I even have seen
20 things in his report or anywhere else that would suggest that
21 it's extreme, as extreme as he says it is. But if you have
22 any of that going on, the first thing you need to start
23 looking at -- and I think this is true in any case -- is
24 whether or not there is a history of domestic violence.
25 Because typically the attitude that's behind that is one of

1 protection against some form of harm. And it can result in a
2 parent who looks controlling, might be restricting access in
3 some ways, might be having communications that sometimes we
4 consider inappropriate with the child. And that can be the
5 manifestation of the impacts of domestic violence.

6 And so I don't believe, from my view of his testimony,
7 that he took that seriously enough as a potential working
8 hypothesis in his evaluation, is what he calls it, to be able
9 to rule that out in favor of maybe this being a gatekeeping
10 issue that results in some form of influence on the child.

11 Because you could take that one step further and say,
12 well, if you want to get to the question of influence and who
13 is exerting undue influence, if it's the result of domestic
14 violence, then you have the original causal component being
15 the domestic violence, which is having its influence through
16 the impact that it has on the alleged gatekeeping parent.

17 And so it's a different hypothesis that would need to be
18 entertained and examined very carefully so that it can be
19 appropriately evaluated.

20 And so it also has a lot to do with the distribution of
21 responsibility for the undue influence that's being claimed
22 that is existing in this case.

23 Q Did you hear Dr. Favaro's testimony yesterday regarding
24 Dr. Favaro telling the child that his dad loves him very
25 much?

1 A I heard that. I listened to that questioning and the
2 answers.

3 Q How might this communication strike the child?

4 MR. MIN: Objection. Calls for speculation.

5 THE COURT: Sustained.

6 Q Could this communication influence how later interview
7 questions were answered by the child?

8 MR. MIN: Objection.

9 THE COURT: Sustained. Same.

10 Q What are the implications of that communication?

11 MR. MIN: Objection.

12 THE COURT: Same ruling, counsel.

13 Q Did you hear Dr. Favaro testify yesterday that the child
14 is a typical eight-year-old in a concrete operational stage
15 of development?

16 A I did hear that, yeah.

17 Q Did you hear the same or similar testimony from Dr. Day?

18 A Yeah, I heard some -- her talk around that issue as well.
19 It sounded like that, yeah.

20 Q Has there been any research done about what percentage of
21 people move beyond the stage of concrete operational in terms
22 of their cognitive development?

23 MR. MIN: Objection. Outside the scope of rebuttal,
24 Your Honor. Again, if he was called to testify about mature
25 age, he had the opportunity to do so.

1 THE COURT: Overruled. You may answer the question.

2 A Yeah. I think this is fairly well known, but 50 percent.
3 So what you should consider is that when you get a concrete
4 operational stage child, that's somebody who can engage in
5 genuine problem solving, they can take perspectives of
6 others, they can understand that other people have different
7 perspectives than they do and might see things from a
8 different perspective than they do as well.

9 When you move beyond that, you start getting into this
10 what they call formal operational stage, which has a lot to
11 do with abstract thinking, you know, the development of
12 abstract thinking, hypothetical thinking. Often people at
13 that stage can engage in kind of jury-like deliberations.
14 And so that's usually from about age 11 on, what we're
15 talking about. But, yeah, it's about 50 percent of people
16 will move from that concrete operational stage up into a
17 formal operational stage in their life. And that was
18 referenced by Garber in his development -- I think it was
19 development -- it was a developmental psychology book for the
20 family law professionals. But he originally took that from
21 Arland's [phonetic] publication in developmental psychology
22 where that reference is fairly well understood and
23 established.

24 Q Can a child be considered mature despite not being in a
25 stage of development beyond concrete operational?

1 MR. MIN: Objection, Your Honor. Outside the scope
2 of rebuttal. The witness is now being asked to give opinions
3 about issues that there was no notice provided.

4 THE COURT: Counsel, he's going into more of an
5 opinion form of testimony than anything else, so I'll sustain
6 the objection.

7 MS. SEIPEL: Understood. I'll move on. Thank you,
8 Your Honor.

9 Q So I just have a couple more questions for you, Dr.
10 Poppleton.

11 In addition to Drs. Favaro and Day, did you also have
12 the opportunity to listen to Ms. Kee's testimony today?

13 A Yeah, I did.

14 Q So she testified about a number of protective measures
15 that Singapore courts might afford the mother and child in
16 this case.

17 How does domestic violence come into play in the
18 analysis of what, if any, protective measures might help
19 mitigate risk?

20 MR. MIN: Objection. Outside the scope.

21 THE COURT: That's sustained, counsel.

22 MS. SEIPEL: Your Honor, if I may be heard.

23 My question to Dr. Poppleton is regarding protective
24 measures and mitigation of risk. And none of this -- that
25 topic was not brought into this trial until Ms. Kee

1 testified. And so it is within the scope. It is proper
2 rebuttal to rebut her testimony that these protections are
3 available, when Dr. Poppleton is likely to testify that while
4 they are available, when domestic violence is involved, they
5 are not adequate.

6 MR. MIN: Your Honor, that statement completely
7 ignores the record. Because Dr. Poppleton, on my cross
8 examination I asked him many questions about mitigating risk,
9 supervised visitation, therapeutic visitation, orders of
10 protection. We went through all of that. They could have
11 asked that on redirect, Your Honor. Those questions were
12 asked and answered by many witnesses, including
13 Dr. Poppleton.

14 THE COURT: Limited latitude, counsel.

15 MS. SEIPEL: Thank you.

16 Q So Dr. Poppleton, I'm going to restate the question.

17 A Please, because I don't even remember the question.

18 Q Ms. Kee testified about a number of protective measures
19 that Singapore courts might afford mother and the child in
20 this case. How does domestic violence come into play in the
21 analysis of what, if any, protective measures might help
22 mitigate risk?

23 A Again, you know, you need to get the findings of domestic
24 violence, which I can't provide. But most of the protective
25 measures that the courts can employ are predicated upon the

1 compliance of the parties themselves.

2 So one thing that's a feature of coercive control,
3 domestic violence, is that sometimes you don't get the
4 compliance that you want. It can be a hallmark of
5 perpetrators, if that's what they have been found to be. It
6 can also be a hallmark of victims as part of a profile of a
7 victim. Sometimes victims are going outside of these orders
8 and structure that have been established in order to manage a
9 situation, or believing they can manage it, or appealing to
10 maybe the better spirit of their co-parent, and foolishly
11 doing that, you know. And that happens quite a bit for a lot
12 of us who are working in this area.

13 That's been delineated in some of the professional
14 publications as well. And that's not an unknown thing. So
15 you do worry about -- you can put all the orders and
16 structure you want, but it depends on the compliance.

17 We also know domestic violence is notoriously unreported,
18 as just another -- something that we know about it. And so
19 that can also happen as well.

20 Q Thank you.

21 MS. SEIPEL: I have nothing further.

22 THE COURT: Cross.

23 MR. MIN: Thank you, Your Honor.

24

25

CROSS EXAMINATION

2 BY MR. MIN:

3 Q You're not diagnosing this child with anxiety or
4 depression, are you?

5 A Oh, certainly not, counselor.

6 Q I just want to be clear.

7 A Yeah, absolutely. You know my testimony.

8 Q You're aware -- you listened to testimony of Dr. Favaro
9 where the mother declined to complete a Child Behavior
10 Checklist, correct?

11 A I do believe I recall that, yes.

12 Q You didn't ask the mother to complete one, did you?

13 A No, I did not.

14 Q And you talked about the fact that with an HRC, I believe
15 -- is that the proper acronym?

16 A Yes, that's correct. HCR, I'm sorry. It's easy to mix
17 up.

18 Q My fault.

19 A No. I share with you.

20 Q It would have needed the consent of the father, correct?

21 A Yeah. I think if you're going to subject anybody to an
22 examination or an evaluation where you're going to have
23 findings and conclusions about them and an opinion, you would
24 need to have consent. And that certainly applied to your
25 client.

1 Q You did not attempt to get his consent, did you?

2 A No. I don't believe that's my role to do that.

3 Q Was it your understanding, after reading Dr. Favaro's
4 report or listening to his testimony, that he utilized the
5 Child Behavior Checklist in order to reach some sort of
6 diagnosis of the child?

7 A I don't know that he was doing a diagnostic evaluation,
8 from what I can tell. I think he was trying to answer or get
9 to answers that might allow him to provide an opinion on
10 issues of the court.

11 Q It would be possible to use a Child Behavior Checklist
12 simply to get some background information from one parent,
13 correct?

14 A We might be -- I might be hung up on the background
15 information thing. But I'm just going to say "yes," yeah.

16 Q But once the mother declined to produce or respond to the
17 Child Behavior Checklist, Dr. Favaro would not have been in a
18 position to do a full evaluation with respect to the child
19 because he wouldn't have had two parents checklists, he
20 wouldn't have had the teacher's checklist, and obviously
21 might -- the child might be too young, but wouldn't have any
22 self-report checklist from the child?

23 A Yeah, I agree with you there, counsel.

24 Q You're aware the Child Behavior Checklist is from the
25 early 2000s, approximately 2001?

1 A I looked at the reference at the bottom. And I can look
2 at it very quickly, but I believe that is correct.

3 Q And it has not been updated since, correct?

4 A I can't recall. I'd have to go look.

5 Q You said you scored it with a computer. You didn't hand
6 score it?

7 A No. I used the software from the company.

8 Q Software which was updated when?

9 A I don't know.

10 Q So you don't know if the software was updated from 2001 or
11 updated in 2024?

12 A It's the one they currently offer. But I can't tell you.
13 I don't write that software. I don't know exactly when that
14 was last updated by the publishing company.

15 Q When is -- when did you obtain this software, initially?

16 A We've had this for a while now in the office. We have, I
17 think -- I'd have to go back and look how it is, but I
18 believe it works off of buying credits. I'd have to check
19 with my office. And so we've had this for a while.

20 Q Is it your testimony, then, that that software
21 automatically updates?

22 A I have no idea. You'd have to get the software developer
23 up here.

24 Q You don't know when the last time it was updated?

25 MS. SEIPEL: Objection, asked and answered.

1 THE COURT: It has been, counsel.

2 Q You have no idea when the norms were established for the
3 scoring of that test?

4 A No, I have no idea.

5 Q So norms could have been, according to your testimony, the
6 norms could have been established in 2001, not in 2024?

7 A Or earlier.

8 Q Or earlier?

9 A Of earlier, yeah. You're asking me something I don't
10 know.

11 Q Right. Norms are important when you score a test or score
12 an instrument, correct?

13 A Yeah. They're going to aid in some hypothesis
14 development, interpretation about a child, certainly.

15 Q Meaning that if the norms that your software used were
16 2001 or earlier, the results could be different than if the
17 norms were from 2024, 2025, correct?

18 A Yeah. So yeah, depending on when the norms are collected
19 and how they're sampled and the demographics of those, they
20 could certainly change over time. But again, you'd have to
21 go to the software company to see. I mean, we're not using
22 an old version, so...

23 Q But you didn't check on that?

24 A On the norms. No, I don't know when those norms were last
25 updated. I have no idea.

1 Q There's criticism of the Child Behavior Checklist and its
2 use in the legal setting, correct?

3 A I think there's criticism that could be brought about
4 every test. And I don't think that the Child Behavior
5 Checklist is immune from that.

6 Q Because it's not normed for legal settings; isn't that
7 right?

8 MS. SEIPEL: Objection, speculation.

9 THE COURT: Overruled. You may answer the question.

10 A Yeah, I don't know that they're -- my understanding of
11 that test -- that they're pulling samples of children that
12 are in a forensic context and using them in that situation to
13 norm the test. That's not been my understanding of that
14 test.

15 Q It's not normed for the Indian population, correct?

16 A I don't believe so. But I'd have to go back and look.

17 Q Normed for the Singaporean population?

18 A I don't know.

19 Q The MMPI has scales, correct?

20 MS. SEIPEL: Objection, outside the scope.

21 THE COURT: It is outside the scope.

22 MR. MIN: It will tie into the Child Behavior
23 Checklist, comparing scales and validity. But I'll get to
24 the point.

25 Q The Child Behavior Checklist does not have scales,

1 correct?
2 A The Child Behavior Checklist has -- no, it has different
3 scales for different -- they call them "syndrome scales."
4 And there are other scales you can look at. I can pull up
5 the protocol and tell you exactly what they are. But they're
6 certainly scales for different things that it measures,
7 claims to measure, purports to measure. Let's word it like
8 that, that it purports to measure.

9 Q But the MMPI has scales that give information about
10 whether the parent or person completing the test is being
11 honest or faking good responses?

12 A I see.

13 MS. SEIPEL: Objection, outside the scope.

14 THE COURT: Overruled.

15 A Yes.

16 Q The Child Behavior Checklist does not have those types of
17 scales?

18 A It does not.

19 Q No, they don't?

20 A That's my answer. No, they do not.

21 Q You agree that the Child Behavior Checklist lacks
22 scientific validity or reliability?

23 A That it lacks -- I think you need to look at the
24 psychometrics behind that, because if it purports -- if it
25 measures what it purports to measure, then that would be a

1 measure of validity. If it has reasonable internal
2 consistency, it could produce a similar result across time,
3 then that's how we define that as reliable.

4 Q So is it your testimony that it is scientifically
5 reliable?

6 A Well, it's normed, it's published, it's commonly used
7 among psychologists. It's commonly used in pediatricians'
8 offices. It is commonly used in family evaluations. I have
9 never understood that it's lacking in those things. But I
10 get your point, it's a messy -- it could be a very messy test
11 to use, which is part of my point with my issue with
12 Dr. Favaro.

13 Q Did you go through the DSM-5-TR criteria?

14 A For what purpose?

15 Q For anxiety and depression?

16 A I'm not diagnosing anybody with anxiety and depression.

17 Q But you testified that the test or scoring results showed
18 significant levels of that?

19 A Based on the test itself, that would indicate that that
20 would be something relevant that would need to be looked at.

21 Q Okay. But did you compare the test results or the scoring
22 results with the DSM-5-TR?

23 A I'm not doing a diagnostic evaluation on this, counselor.
24 There is no way I would do that.

25 Q Then how do you state that their levels -- I'll withdraw

1 the question.

2 A Thank you.

3 Q The Child Behavior Checklist is scored from a scale of
4 zero to what?

5 A Well, we can -- I can open it back up and take a look at
6 it.

7 Q Do you recall? You don't have to do that. Do you recall?

8 A No. It's put on T-scores. So it's going to be
9 standardized scores where you'll have, it looks --

10 Q I'm not asking you to look at anything, so I'd rather you
11 not look at anything.

12 A Yeah, so you have standardized scores.

13 Q Dr. Poppleton, I'm not asking to you look at anything.
14 I'm asking you to answer a question. If you could please
15 focus on me, okay?

16 Without looking at any documents, are you aware of how
17 the scores or what the range is of results -- again, without
18 looking at the document, Dr. Poppleton, please -- are you
19 aware of what the scores are or the options that a parent can
20 complete on the Child Behavior Checklist?

21 A So what I have in front of me is the scoring profile. But
22 you -- I guess to your question, if we want to put it into
23 the box you're trying to put this in, you could have a zero
24 score on some of these scales. But that's not how it works.
25 They're transferred, or there's a tabulation they use to put

1 them in a standardized score. So they're put into what they
2 call T-scores. So that would be a different form of scoring.

3 Q Okay. Do you have the profile, the scoring profile?

4 A I have both of them here, yes.

5 MR. MIN: Your Honor, we'd ask for that to be
6 produced since this is a late opinion or information that was
7 not -- we were not given notice of beforehand.

8 THE COURT: Do you have that document in front of
9 you, sir?

10 THE WITNESS: I do.

11 THE COURT: All right. Do you wish to retrieve it,
12 counsel, for the examination?

13 MR. MIN: Sure. Your Honor, we ask it be produced at
14 some break. Because as I stated earlier, we might want to
15 call Dr. Favaro or Dr. Day as rebuttal, but we would need to
16 see the scoring profile before we make that decision. No
17 further questions.

18 THE COURT: Counsel, anything further?

19 MS. SEIPEL: I have nothing further, Your Honor.

20 THE COURT: Is there a need to call Dr. Kee back?

21 MS. SEIPEL: No, Your Honor.

22 THE COURT: Counsel, let's look at the scoring
23 counsel has and make a determination if you wish to call
24 anybody else.

25 MR. MIN: Sure.

1 Could I ask counsel if they have that electronically, so I
2 can e-mail that, since they are not here in person?

3 MS. SEIPEL: I don't have that.

4 THE WITNESS: I have it in paper form and I will give
5 you my copy.

6 MR. MIN: I appreciate that. Your Honor, may I
7 approach?

8 THE COURT: Yes.

9 THE WITNESS: There you go, counselor. You can keep
10 it.

11 MR. MIN: Can we take a short recess so I can take
12 photos of this and send it to Dr. Day and Dr. Favaro?

13 THE COURT: I just want to give the parties an
14 understanding. We're going to finish this case today. The
15 court is going to give you limited opportunity for closing
16 remarks today. The court would like to give you its oral
17 opinion today before you leave. And so the more time you
18 take offering testimony this court has already heard or
19 repetitive testimony, that's not really of value or helpful
20 to the court.

21 The court has heard from all these doctors already once
22 around. Now we're going the second time around. Some of it
23 is true rebuttal; some of it is not. But nonetheless, I want
24 to give the parties a clear understanding what the
25 expectations of this court will be.

1 MR. MIN: Thank you, Your Honor. We're not going to
2 recall Dr. Day or Favaro. We would prefer to go to oral
3 summation?

4 THE COURT: Do you still need to take a break or
5 recess?

6 MR. MIN: Can I ask you -- yes, Your Honor, the
7 answer is yes. How much time will we have for oral
8 summation.

9 THE COURT: I would say no more than 30 minutes.

10 MR. MIN: Perfect. We would ask a short time for
11 rebuttal.

12 THE COURT: Rebuttal or a break?

13 MR. MIN: No, no, no, with our opening statement, if
14 Your Honor permits, we would like to take 25 minutes on our
15 closing statements and save five minutes for rebuttal.

16 THE COURT: That's fine with the court.

17 MR. MIN: I would like a short break.

18 THE COURT: We'll take a short break.

19 Counsel, with that, just so we're clear, petitioner has
20 rested, respondent has rested, correct?

21 MS. SEIPEL: Yes, Your Honor.

22 MR. MIN: Yes, Your Honor.

23 THE COURT: All right. Five minutes, counsel.

24 (Recess.)

25 THE COURT: I know there's a time limit. Please be

1 mindful we have a court reporter here.

2 MR. MIN: Thank you, Your Honor.

3 May it please the court. We've heard five days of
4 testimony. The story here has been made clear. On
5 October 14, 2024, this child, A.S., was taken from his only
6 home by his mother in a transparent attempt to gain a
7 financial advantage and forum shop in the state of
8 Washington.

9 The parties moved to Singapore in 2022, after years of
10 planning, for financial reasons, and to be closer to family
11 in India. Even assuming respondent's arguments here that
12 they planned to move to India for a temporary period of time,
13 as she testified, a year, maybe two, which the record does
14 not support, that plan clearly changed by the fall of 2024.
15 And any purported temporary stay that respondent alleges, at
16 minimum, turned into an indefinite relocation.

17 The parents here took all normal steps to establish a new
18 home in a new country, sufficient to change this child's
19 habitual residence from the United States to Singapore. This
20 child's habitual residence.

21 In the summer of 2024, the parties experienced marital
22 difficulties after respondent admittedly had an emotional
23 affair with one of her friends. They began weighing their
24 options in the summer, while they were in India on vacation.
25 They agreed jointly, after the summer of 2024, to return and

1 live in Singapore. That was their agreement, as testified to
2 by respondent in these proceedings. They had already
3 re-signed or signed a new three-year lease to be closer to
4 the child's new school in Singapore, a school that no longer
5 followed the American curriculum.

6 In the fall of 2024, after learning that the financial
7 circumstances would be better for respondent in the United
8 States, she decided to leave and seek relief in the state of
9 Washington. Respondent here disputes that Singapore is the
10 child's habitual residence on the grounds that, one, they
11 always intended to move there temporarily, and they never
12 wanted to live and raise their child in Singapore
13 indefinitely.

14 However, they looked at schools that would go through high
15 school. They talked about their concerns about the child
16 having to do service after graduating high school, all
17 indicating that their discussions were about staying in
18 Singapore long term.

19 However, even if the parties did not intend to permanently
20 live in Singapore or stay in Singapore long term, it does not
21 mean that the child's habitual residence was not Singapore.
22 Key here is the case of *Koch v. Koch*, 450 F3d 703, out of the
23 Seventh Circuit. "Although residing habitually in a place
24 means that a person has, some in sense, settled there, it
25 need not mean that's where you plan to leave your bones."

1 In the *Koch* case, the Seventh Circuit was quoting *Moses*, a
2 Ninth Circuit case. The family, as stated in the case of
3 *Silverman*, must merely have a, quote, "Sufficient degree of
4 continuity to be properly described as settled." End quote.

5 The Hague Convention was adopted in 1980 for situations
6 like this. It was adopted to address the problem of
7 international child abductions during domestic disputes,
8 cited by *Golan v. Saada*, 596 U.S. 666, U.S. Supreme Court in
9 2022. The problem of international child abductions during
10 domestic disputes. That is exactly what was going on in the
11 fall of 2024. The parties were engaged in a domestic
12 dispute. And the mother unilaterally took the child from
13 Singapore, from his home, to Washington.

14 The Ninth Circuit has stated in *Cueillar v. Joyce*, 596 F3d
15 505, that "The Hague Convention seeks to deter parents from
16 abducting their children across national borders by limiting
17 the main incentive for international abduction, the forum
18 shopping of custody disputes."

19 The mother here did exactly that. She is seeking relief
20 in the state of Washington because of her abduction of the
21 child from Singapore.

22 The Seventh Circuit found in *Garcia v. Pinelo*, 808 F3d
23 1158, "One of the Convention's two central objectives is
24 deterring the abductor from depriving his actions of any
25 practical or juridical consequences." Here respondent is

1 seeking to maintain these actions in Washington as a result
2 of her abduction.

3 The defense's -- three are raised by the respondent --
4 grave risk of harm, mature age exception, and the Article 20
5 human rights exception, should be construed narrowly.

6 The case from the Seventh Circuit of *Martinez v. Cahue*,
7 826 F3d 983, states, "Applying a defense would undermine the
8 deterrent effect of the Convention's system. A court should
9 hesitate to take that step."

10 The Convention's core premise is that the interests of
11 children, matters relating to their custody, are best served
12 when custody decisions are made in the child's country of
13 habitual residence. Custody should be determined by
14 Singapore. They are in the position to address requests for
15 relocation, address best interests analysis, to undergo the
16 full type of evaluation that Dr. Poppleton, Dr. Favaro, Dr.
17 Day spoke about, that would address what is in this child's
18 best interests. That is not something this court is equipped
19 to do. And it's not something, as Dr. Poppleton admitted, he
20 was equipped to do, given the time constraints and
21 limitations of that process.

22 The Singaporean courts are ready, willing and able to
23 address the custody disputes at hand. And that is where this
24 case should be resolved. The mother has the opportunity and
25 had the opportunity to seek the resolution that she wanted,

1 to live in the United States, before the Singaporean courts.
2 She filed several proceedings before the Singaporean courts
3 before voluntarily withdrawing those related to orders of
4 protection and maintenance.

5 However, the custody application by the mother and the
6 cross-application for custody by the father are still pending
7 in Singapore.

8 This court is well aware this is not a custody case. Even
9 though one of respondent's defenses is the grave risk of
10 harm, courts have routinely said, "It's not intended to be
11 used by defendants as a vehicle to litigate or relitigate the
12 child's best interests." This court cannot try to determine,
13 quote, "Whether the child is happy where it currently is, but
14 whether one parent is seeking unilaterally to alter the
15 status quo with regard to the primary locus of the child's
16 life." End quote. This is from *Maxwell*, Fourth Circuit.
17 Also quoting *Moses* from the Ninth Circuit.

18 Did this mother unilaterally try to alter the child's
19 status quo? She most certainly did. She did not seek the
20 father's consent, did not inform the father until, as she
21 alleges, hours before she traveled to the United States; a
22 fact which is contested.

23 And the locus of the child's life. Where was that on
24 October 14, 2024? It certainly wasn't Seattle where they
25 moved all of their personal belongings, or sold them, or gave

1 them away, where they had no home, where the mother returned
2 to sleep in a friend's room for a week before securing her
3 own apartment. That is not where the child's life was, which
4 is this court's focus.

5 Perhaps the parties had some leftover bank accounts.
6 Perhaps the parents had some friends. But the question is
7 where was this child's life? And that was unequivocally in
8 Singapore.

9 While living in the United States, prior to summer of
10 2022, the child went to kindergarten for a year and went to
11 pre-K for a couple of months after schools reopened, after
12 the COVID pandemic. The first nine or so months the child
13 was living in Seattle, the child was restricted socially and
14 academically because of the COVID restrictions. The child
15 did not develop the type of friendships that he returned to
16 in 2024. He did not have sleepovers with his friends that he
17 did in Singapore. He did not engage in the type of
18 activities or the level of activities that he did in
19 Singapore while he was living in Washington.

20 Respondent may try to argue that this child has no
21 habitual residence, something that courts have routinely
22 disfavored as an outcome because, as the Supreme Court has
23 noted, it leaves some children unprotected by the parameters
24 of the statute. That is certainly not an outcome that should
25 be considered by this court.

1 The primary issue in this case is habitual residence. The
2 case of *Monasky v. Taglieri*, from the Supreme Court in 2020,
3 addressed the issue of habitual residence. "A child's
4 habitual residence depends on the totality of the
5 circumstances specific to the case," says the *Monasky* court.
6 They articulated several principles for determining habitual
7 residence. "A place where the child is at home at the time
8 of removal or retention ranks as the child's habitual
9 residence." A child, quote, "Resides where she lives." End
10 quote.

11 Ultimately, the question the Supreme Court posed is,
12 quote, "Was the child at home in the particular country at
13 issue?" End quote. In this case, was Singapore the child's
14 home on October 14, 2022? Respondent cannot reasonably argue
15 that this child's home was anywhere but Singapore. His
16 school was in Singapore. His belongings were in Singapore.
17 His friends were in Singapore. He was close to family in
18 Singapore. He spoke two of the four official languages in
19 Singapore. His social life was in Singapore. Religious
20 activities, studying the Hindu religion in Singapore.

21 The question before this court is, did this child's life
22 have a sufficient degree of continuity on October 14th? Yes,
23 it did. He was going to school. In fact, mere days before
24 the child's abduction, the mother was signing the child up
25 for extracurricular activities in Singapore.

1 The Supreme Court has stated a few factors the court
2 should look at in addressing habitual residence. A change in
3 geography. Check. They moved to Singapore. Passage of an
4 appreciable period of time. Check. They lived there for
5 over two years. Age of the child. Check. Eight-year-old
6 child, went to first, second and parts of third grade in
7 Singapore. Experts testified, very important developmental
8 stage for a child, where you start branching out of your
9 immediate family and you make social connections.

10 Immigration status of the parent and child. They have
11 long-term visas in Singapore. They have five-year visas that
12 expire in 2028. Academic activities. Check. The child was
13 engaged in numerous academic and social activities. Social
14 engagements. He went to birthday parties. He had his
15 birthday parties in Singapore. He had friends. He had
16 sleepovers.

17 Participation in sports programs and excursions. They
18 traveled around. And they always returned to Singapore
19 because that's where their home was. Language proficiency.
20 Child was fluent in English. Testimony of petitioner, spoke
21 Tamil and was also learning Chinese, the third of the four
22 major languages, or official languages of Singapore. And the
23 last one, location of personal belongings. That's where all
24 of his personal belongings were, in Singapore.

25 We can cite to some of the exhibits. I'm not going to

1 waste the court's time citing to the exhibits about the
2 personal property, but we put in several exhibits that talked
3 about the shipment and the transfer of personal property,
4 including respondent's participation. This is key here.
5 Respondent participated in every meaningful step of the way
6 in moving to Singapore. Looking at housing. Talking about
7 getting rid of their personal belongings. Enrollment in
8 activities. Enrollment at school. Going to the virtual
9 meetings for the school. Discussing moving to a new place to
10 be closer to the school.

11 The respondent was not -- just willingly acceded. In
12 fact, the testimony was clear from both sides. They looked
13 at three countries. Switzerland, Dubai or the UAE, and
14 Singapore. And the mother's preference was Singapore. That
15 is where they moved.

16 Respondent testifies that the move was temporary. We'll
17 address that. She says it was a year. That was the
18 intention. When they moved there they, got a Tech.Pass that
19 was good for approximately two years. That, in 2023, was
20 moved to a ONE Pass. So about a year after they were there,
21 they applied for a longer-term immigration status. When they
22 moved there, they didn't sign a one-year lease, they didn't
23 sign a six-month lease they signed a two-year lease for an
24 apartment.

25 Then the mother says, "Well, maybe we were going to be

1 there for two years." Well, after two years, they signed
2 another lease. They switched schools. They continued to be
3 on the ONE Pass. Respondent's testimony about the temporary
4 nature of this move lacks credibility and is not supported by
5 the record in this case.

6 Some of the activities the child participated in on a
7 weekly basis included chess lessons, swimming lessons, piano
8 lessons, drum lessons, basketball, math, coding, religious
9 education, including, as I mentioned before, Chinese-language
10 classes.

11 *Monasky* talked about a lot of the factors. One of the big
12 factors is intent. The parties' shared intent. And
13 specifically their last shared intent. This was developed
14 under the *Moses* line of cases. It was not abrogated by the
15 Supreme Court in *Monasky*. It was simply one factor among
16 many that the court should look at.

17 But when looking at the intentions of the parties in this
18 case, it's not just what they said; it's what they did. And
19 the case law is clear about that. *Moses* says that "A settled
20 intention to abandon a prior habitual residence need not be
21 expressly declared if it is manifest from one's actions.
22 Indeed, one's actions may belie any declaration that no
23 abandonment was intended."

24 We went through a lot of the actions of these parties.
25 The move. The school. We don't need to repeat that. And I

1 go back to the intentions. Summer of 2024, respondent's
2 testimony here is key and crucial. They were in India. They
3 were having domestic disputes. She felt pressure from --
4 including her family, to move to India. She says she wanted
5 to move to the United States.

6 Her and petitioner could not agree what they were going to
7 do after the separation, until they agreed to go back to
8 Singapore. And she specifically testified to that. "We
9 agreed to go back to Singapore until we could figure out what
10 to do next." The question was then asked, "You never agreed
11 what to do next. You never came to a different agreement
12 after that." And she agreed with that statement. The last
13 agreement they made was to live in Singapore, was to continue
14 their life in Singapore.

15 This was not a quick decision. Petitioner relinquished
16 his U.S. green card, several months, a year before they
17 moved. They transferred assets. They talked about various
18 opportunities and options that were before them. They looked
19 at schools for several months. They engaged in the entire
20 process of deciding between various countries. They had
21 already moved once at this point, partly for financial
22 reasons, from California to Washington. And they moved from
23 the United States to another country because of financial
24 reasons, among others.

25 Even if, for argument sake, they had left the door open to

1 returning to the United States sometime in the future, the
2 family's home was clearly Singapore. Again, the Moses case
3 is important. "Even if the petitioning parent had earlier
4 consented to let the child stay abroad for some period of
5 ambiguous duration, sometimes the circumstances surrounding
6 the child's stay are such that, despite the lack of perfect
7 consensus, the court finds the parents to have a shared
8 mutual intent to let the stay last indefinitely."

9 What was their agreement to return to the United States?
10 We've heard no testimony about this. When were they supposed
11 to come back? Did they have round trip tickets? Did they
12 have any tickets? Did they discuss where they would come
13 back to? Did they look at housing options in the U.S. for
14 when they came back? Schooling options. There's no
15 testimony about any concrete plan or discussion about
16 returning back to the United States because of one simple
17 fact, there was no discussion or consensus or agreement about
18 returning to the United States at any point in time.

19 Petitioner gave up his green card. After he did that, he
20 obtained an O-1 visa, which then expired in 2023. His
21 immigration status lapsed. In Singapore, he started a
22 business. That business eventually was reconstituted in the
23 Cayman Islands. But that business then turned into
24 respondent's business, a venture capital business that she is
25 the CEO of and she uses to invest in other companies. That

1 business is situated in Singapore.

2 She's also CEO of another company situated in India. Her
3 family business. She's not employed in the United States.
4 She has no ties to employment in the United States at all.
5 In fact, she testified that she is still unemployed here in
6 the United States.

7 The filings in the fall of 2024 are critical here, so I'm
8 going to go through the timeline a little bit, starting in
9 August 2024.

10 THE COURT: Just so you know, counsel, you're at
11 22 minutes almost now.

12 MR. MIN: I've used 22 minutes?

13 THE COURT: Yes.

14 MR. MIN: Thank you, Your Honor.

15 They returned to Singapore. And August 31st they had a
16 domestic dispute that resulted in police reports being filed.
17 Shortly thereafter, my client, petitioner, left Singapore to
18 go to India on a preplanned business trip that he pushed up
19 one day. When there, he discovered his father was in the
20 hospital, and he spent time with his father and his family.
21 He then filed for divorce in India. Respondent then filed
22 for divorce in Washington a couple days later. She then
23 filed various actions in Washington and Singapore addressing
24 maintenance, protective orders, and custody.

25 Now, the respondent will certainly argue that petitioner

1 filed for divorce in India and filed request for custody and
2 made certain representations. We've talked about the *Baz v.*
3 *Patterson* case before. I'm going to repeat that case here.
4 In that case the parties had agreed in writing, and to a
5 court, that the habitual residence was the United States.
6 The court, the federal court, disagreed. It doesn't matter
7 what parents represent a habitual residence to be. That is a
8 legal conclusion. That is a factual determination made by
9 the court about the child's habitual residence. Parents can
10 say whatever they want to say for whatever purpose they want
11 to say it. It does not make it true. And the *Baz v.*
12 *Patterson* case was clear about that.

13 Now, respondent also cites to a couple cases in their
14 pretrial brief about habitual residence. The *White v. White*
15 case is distinguishable on these grounds. In that case the
16 parties moved to Argentina for two years. That's what the
17 court found. They maintained ties in the United States,
18 employment, a leave of absence, family, property.

19 Here there was no such agreement. There is no time
20 demarcation here in this case. They moved there
21 indefinitely, not temporarily, indicating some sort of
22 limited time duration. Respondent could never testify and
23 did not testify about when the return was supposed to happen.
24 This case is more like the *Schram v. Zarak* case out of the
25 New York Southern District. There, during COVID, the parties

1 moved to Iceland for an indefinite period of time. The
2 mother, the respondent there, testified, after taking the
3 children back to New York, "We were only there temporarily,
4 and we were always going to come back to the United States."
5 And the court found that may be the case. But you did not
6 have a timeframe for when you were going to come back. And
7 when you moved there, even if you hoped or expected one day
8 to return, that does not mean that habitual residence does
9 not shift.

10 Similarly, in this case, irrespective of respondent's
11 hopes and dreams and expectations, the agreement of the
12 parties was to continue living in Singapore with no ending.

13 I'm going to turn quickly to the affirmative defenses.

14 THE COURT: You're at 25 minutes now, counsel.

15 MR. MIN: I'll reserve my time and use the
16 affirmative defenses on rebuttal.

17 THE COURT: All right. Thank you.

18 MS. SEIPEL: Forum shopping. The Hague Convention on
19 international child abduction was designed to prevent parents
20 in the middle of domestic disputes from taking their children
21 across country borders to gain a more favorable custody
22 forum. That's why we're here. We're not here to determine
23 where mother believes or was advised she would be entitled to
24 retain more of the marital assets. But that's what father
25 has made this case about and why he filed this case, to

1 protect what he cares about, in his own words, "his" billions
2 of dollars.

3 Now, there are three main determinations that the court
4 has though make in this matter today. First, whether the
5 child was habitually resident in Singapore. Second, whether
6 the child would be subject to a grave risk of exposure to
7 physical or psychological harm if returned to Singapore. And
8 third, whether the child is mature and whether he objects to
9 being returned to Singapore. And I want to talk about each
10 of those in that order.

11 So first, whether the child was habitually resident in
12 Singapore. *Monasky v. Tagliari* states that, "A child's
13 residence is habitual only when the residence is more than
14 transitory." When analyzing a child's habitual residence or
15 lack thereof, courts must be sensitive to unique
16 circumstances of the case and informed by common sense.

17 Among other factors to consider, some relevant ones
18 include the place the child considers home, the length of
19 time the child has resided in the location claimed to be the
20 habitual residence, and the intentions of the child's
21 caregivers surrounding the family's residence. Those factors
22 come from *Rodriguez v. Molina*, 608 F. Supp 3d 791.

23 *Monasky* also clarified that the child's immigration status
24 and language proficiency in the claimed habitual residence
25 are also relevant factors to consider.

1 Now, notably, the Convention does not require a district
2 court to determine where a child habitually resides.

3 Instead, the Convention requires that the district court
4 determine whether the child habitually resides in the
5 location that petitioner claims he does.

6 So in this case, father must convince the court that it is
7 more likely than not that the child's presence in Singapore
8 was more than temporary.

9 So let's consider the facts that father believes proves
10 his case. The child had a home there. His home in Singapore
11 was in an American community. The child went to school in
12 Singapore. He went to an American school. And both parties
13 testified that the child experienced bullying in school, such
14 that he struggled to acclimate and had just switched
15 schools prior to coming to the United States.

16 The child had friends and playdates there. He had the
17 same in Washington. This fact doesn't count one way or the
18 other. The child received medical care in Singapore. But he
19 did not have a regular pediatrician, and he did not have
20 health insurance there. And the parties sold their
21 belongings. They are billionaires. They can do whatever
22 they want with their belongings. Again, this doesn't cut one
23 way or the other.

24 Now, the facts that indicate that Singapore was a
25 temporary place for the family to live and a place the child

1 was not fully acclimatized to, mother credibly testified that
2 she wanted and believed the move to Singapore to be temporary
3 and that father assured her that it would be temporary.

4 To that end, mother did not quit her job upon leaving.
5 She took a sabbatical. She maintained connections with
6 friends and colleagues. She maintained an address in
7 Washington, as evidenced in her 2023 tax returns. And the
8 parties continued to file United States taxes. The parties
9 maintained United States bank accounts. To this day father
10 holds assets in trusts in the United States. Mother and the
11 child are United States citizens. Father continues to have
12 lawful permanent status in the United States. Both parties
13 maintain United States driver's licenses. Mother continues
14 to vote in the United States. The parties maintained health
15 insurance in the United States. The parties were working
16 with a United States surrogacy agency to have a baby in the
17 United States.

18 The court should consider the parties and the child's lack
19 of ties to Singapore in this analysis as well. The child
20 speaks English. And he may have had some Tamil words to his
21 father's father. But nothing more than that and he is
22 certainly not fluent.

23 There was no testimony in this trial about the child
24 attending Singaporean cultural events. The family didn't
25 frequent restaurants or ever eat Singaporean food. Mother

1 and the child are in Singapore on dependent status that could
2 be unilaterally revoked by father at any time. Mother won't
3 have a dependent status upon divorce. And father, despite
4 being eligible, never applied for permanent residency in
5 Singapore.

6 Mother does not work in Singapore. She runs an investment
7 company that has no employees and invests only in United
8 States companies. Father does not work in Singapore. He
9 intentionally moved his business out of Singapore to India
10 and the Cayman Islands, quote, "A year or two ago." Father's
11 address on his newly issued Indian passport is his Indian
12 address. Father leases an apartment in India. He recently
13 bought mother a car in India. He holds a personal bank
14 account in India.

15 And the parties' travels throughout their time in
16 Singapore. Just within the past six months, the parties
17 spent an entire three months away from Singapore, in India
18 and New Zealand.

19 And perhaps most importantly the court must consider
20 father's own sworn statements in his Indian custody filing.
21 In Exhibit 335, paragraph 10, father is quote, "Seeking
22 custody of minor son and relocation of the minor son back to
23 his home country, i.e., India." Then in paragraph 14 father
24 writes, "I state that the respondent and I, despite our short
25 sojourn in the United States of America and Singapore, have

1 always intended to return and settle permanently in India.
2 At no point did we contemplate making a permanent life
3 outside of India. This shared intent to return to India
4 forms a significant part of our family's identity."

5 Where father himself, prior to filing this Hague
6 Convention matter, claims that the country of India is where
7 his child's identity lies, he does not now get to change his
8 stance solely because it suits him better.

9 Exhibit 351 in this regard is telling. Father consulted
10 with countless lawyers. He included his brother in those
11 communications. And he worked with his lawyers to figure out
12 a way to lie to mother and the courts about his true
13 residence and intentions. Father, with his lawyers, plotted
14 for Singapore to be his quote, "home," despite it not being
15 so.

16 Using common sense, as *Monasky* dictates, the court must
17 determine where the child is at home. To that end, the child
18 told Dr. Poppleton that he's American. The United States is
19 his home. Because it is his home. To use petitioner's words
20 directly, "Singapore was a short sojourn for the family" and
21 nothing more than that.

22 In analyzing habitual residence in this matter, rather
23 than ask whether a settled purpose is present, the court
24 should instead ask whether a merely transitory, contingent or
25 other temporary purpose is apparent.

1 The parties in this matter clearly disagree about a whole
2 lot. But the evidence shows that they do agree on one thing,
3 and that is that Singapore was for a temporary and limited
4 purpose. And that is not habitual residence.

5 The second thing that the court must make a determination
6 on today is whether the child would be subject to a grave
7 risk of exposure to physical or psychological harm if he is
8 returned to Singapore.

9 Under Article 13(b) of the Hague Convention, "A court may
10 refuse to return a child to his habitual residence if it
11 determines that there is a grave risk that the child's return
12 would expose him to physical or psychological harm."

13 *Baran v. Beaty* clarifies that the Article 13(b) exception,
14 in holding that courts are not required to find that the
15 child had been previously physically or psychologically
16 harmed, it's required to find only that the child would be
17 exposed to such harm.

18 At the heart of this case is domestic violence. And the
19 court today must make a determination whether or not there
20 was domestic violence in the home. And if so, to what extent
21 domestic violence plays a role in the grave-risk analysis.

22 The record is ample with the specifics of domestic
23 violence that mother and the child have lived through over
24 the years. But to comment on a few. I want to start with
25 physical abuse. Father violently kicking mother in the back

1 when she wouldn't have sex with him, such that she needed to
2 have an x-ray. Father holding mother up by her neck, also
3 known as strangulation. Father punching mother in the chest,
4 culminating in him fleeing to India to avoid police and
5 criminal repercussions, to only later come back and file his
6 own criminal complaint against mother. Father hitting the
7 child. Father shaking the child in rage. Father pinching
8 the child or pretending to pinch the child or threatening to
9 pinch the child.

10 Father and Dr. Favaro played this off as permissible
11 discipline. But is enticing pain in your child to gain
12 compliance with what you want, forcing your child to cower,
13 sob, run away from you in fear, discipline or abuse?

14 And father raping mother. The term "rape" was not
15 directly used in testimony, but that is exactly what
16 happened. Marital rape. Exhibit 327, Page 47. Father
17 admits, quote, "Pain forcing mother to have sex with him."
18 That's rape.

19 Financial control. Father, throughout their marriage,
20 claims that the marital assets are his. His money. Father's
21 threats to leave mother and the child on the streets. Father
22 threatening to cut mother and the child off from funds to
23 live. Father not responding to mother's requests for payment
24 of bills upon fleeing to India after the August 31st
25 argument. Father flagging mother's credit card transactions

1 as fraud. Father blocking mother from one of their joint
2 credit cards. Father paying lawyers, as evidenced and
3 admitted to in father's WhatsApp chat with his lawyers, for
4 the sole purpose of conflicting them out so mother would not
5 have adequate representation in this case.

6 Father paying mother \$100,000 on the very morning of this
7 trial, into her Singapore account, rather than a trust of his
8 lawyer's, so the mother could have it in an account of her
9 choosing.

10 Verbal abuse. Father saying to mother, "Go and die,
11 bitch." An e-mail that is an exhibit in evidence. Father
12 saying, "You and your mother have opinions you're not
13 entitled to have."

14 And other evidence of father's control and abuse. His
15 threats to gain compliance with his demands. Mother
16 testified about father threatening to cancel her and the
17 child's visas, to end the marriage, shaming her and her
18 Indian culture. To go get sex elsewhere if she would not
19 give it to him.

20 Controlling litigation. The very first litigation filed
21 here was father's Indian filing. And after that he refused
22 to show up in Singapore, until he was arrested for not
23 showing up. Then he files this case and asks to appear
24 remotely for the sole purpose of evading service of the
25 Washington dissolution case. The hidden cameras in the home.

1 Installed just two days after the family moved. Father
2 admits that he paid someone to install illegal surveillance
3 of his wife to illegally observe her and monitor her. And he
4 sent footage of this to his brother and his brother's
5 assistant.

6 Now, father claims the video footage in these cameras
7 didn't work, for some reason. But does that make this
8 behavior any less threatening, any less concerning to the
9 person who is being illegally observed?

10 And last, father declaring to mother and the child that he
11 is God. He is king. He is a billionaire, and he can do
12 whatever he wants. And he's done just that. Used his
13 wealth, filed this case, and continued to perpetuate his
14 abuse throughout this litigation.

15 Now, with this overwhelming evidence, the courts must
16 evaluate whether returning the child to this type of
17 environment would expose the child to physical or
18 psychological harm. Unless the court discredits mother's
19 entire testimony, believing she's making everything up,
20 there's simply no way of getting around the risk.

21 Over the course of almost the past two days, the court has
22 heard extensive expert testimony regarding domestic violence
23 and risk. And the court has reports in hand on this issue.
24 But what is telling about every expert that testified in this
25 trial is one thing. In reading from Page 15 of father's own

1 expert's report, "All of the professionals in this case agree
2 that domestic violence in the home constitutes grave risk."
3 Mother testified throughout this trial as to the impact that
4 the domestic violence has had on her, her emotional capacity,
5 her mental capacity, her physical health and her parenting
6 abilities.

7 Dr. Poppleton testified today about a potential that the
8 domestic violence has had on the child. The Child Behavior
9 Checklist was administered by Dr. Favaro, father's own
10 expert, in the course of his work. Now notably, the Child
11 Behavior Checklist was filled out or given information by
12 father, who has not seen the child since August 31st of 2024.
13 So that checklist was based on information about the child
14 prior to the child coming to the United States.

15 Dr. Favaro testified that he doesn't often rely on the CBC
16 because parents are often self-serving, not being fully
17 honest in their answers, to obtain better results for them.
18 Yet, even assuming father filled out this questionnaire in a
19 self-serving way, the child still came out on that
20 questionnaire to be depressed and anxious.

21 There is one reasonable conclusion here and one only, and
22 that is that the child is already being impacted by the
23 domestic violence his father has perpetuated in the family's
24 home.

25 Briefly, I want to touch on the topic of ameliorative

1 measures. Ameliorative measures simply should not be
2 considered in this case. The case of *Golan v. Saada*, notably
3 argued and lost by Mr. Min himself at the Supreme Court,
4 specifically states that courts have discretion to decline to
5 consider imposing ameliorative measures where it is clear
6 that they would not work. The Supreme Court writes, quote,
7 "Physical or psychological abuse, serious negligent and
8 domestic violence in the home may also constitute an obvious
9 grave risk to the child's safety that could not readily be
10 ameliorated. A court may decline to consider imposing
11 ameliorative measures where it reasonably expects that they
12 will not be followed." End quote. Reasonably expects that
13 they will not be followed.

14 So if this court is inclined to impose ameliorative
15 measures, can we reasonably expect that they will be
16 followed? Will father follow ameliorative measures when he
17 has already proved that he'll do what he wants no matter who
18 is telling him to do something?

19 Father knew about the Singapore proceedings, but he didn't
20 show up. He was arrested because he did not show up. Again,
21 he asked to appear remotely in this trial to evade service of
22 the Washington State dissolution case. And mother testified
23 credibly that father said to her, on countless occasions,
24 "I'm a billionaire. I can do whatever I want."

25 In *Golan v. Saada* the Supreme Court also stated, "The

1 Convention does not pursue return exclusively or at all
2 costs. Rather, the Convention is designed to protect the
3 interests of children and their parents. And children's
4 interests may point against return in some circumstances.
5 Courts must remain conscious of this purpose."

6 To that end, all experts in this trial testified that
7 domestic abuse violates a fundamental human right. All
8 persons have a human right and interest to be free from
9 violence and abuse. Ameliorative measures are simply not
10 proper in this case, and I ask the court to decline to
11 consider them altogether.

12 The last main topic that this court must make a ruling on
13 today is whether or not this child is mature enough for his
14 views to be taken into consideration and whether he objects
15 to being returned to Singapore. Now, this exception to
16 return is rooted in the autonomy of the child. This comes
17 from *Rodriguez v. Yanez* out of the Fifth Circuit. The court
18 writes, "Children are not inanimate objects. They are people
19 with agency of their own. This exception thus allows a
20 sufficiently mature child to interpret his own interests.
21 The drafters of the Convention simply deemed it inappropriate
22 to return a mature child against its will. Whatever the
23 reason for the child's objection, in such cases the child's
24 autonomy trumps the Convention's interests in preventing
25 wrongful removals."

1 Now, father argues in this case that the child's either
2 not mature enough for the court to consider his views or that
3 the child does not have a particularized objection to being
4 returned.

5 As to that first point, whether or not the child is mature
6 enough for the court to consider his views, the court heard
7 testimony from both experts -- I should say Dr. Favaro and
8 Dr. Poppleton -- in this case, that the parties' child is a
9 bright, expressive, delightful, albeit bored, eight-year-old
10 kid.

11 Dr. Day admitted that based on her review, and Dr. Favaro
12 and Dr. Poppleton also testified, that this child is able to
13 take other people's opinions and feelings into consideration.

14 In Exhibit 320, on Page 4 of 7, the child's report card
15 from Singapore, his teacher writes that the child used plain
16 evidence and reasoning as he thought about what he observed,
17 and what he thought was true about those observations, and
18 the evidence to prove or disprove what he thought was true.

19 Then the teacher writes on Page 5 of 7, "The child showed
20 maturity when researching the Peranakan culture and the
21 contemporary artist Louise Hill." And further writes, "The
22 child responds to questions and discussions in class through
23 mature reflection." And what is more, when father was
24 questioned about these things, he agreed that he sees some of
25 these traits in his child.

1 The law is very clear that a child need not be mature
2 beyond his years for his views to be considered. Where all
3 experts in this case agree that this child is in the concrete
4 operational stage of cognitive development, and Dr. Poppleton
5 told the court today that only 50 percent of the human
6 population ever makes it past this stage, there's simply no
7 reason to discredit the child's maturity in this matter such
8 that the court should not consider his views.

9 The child clearly and particularly objects to being
10 returned to Singapore. The child told Dr. Poppleton, as
11 Dr. Poppleton lays out in his report: The child was born in
12 America. He's an American citizen. Washington is home. He
13 likes it more in Washington. The school in Washington was
14 more welcoming to him. The kids in America are more inviting
15 and nice. He made more friends easily here. The weather
16 here is much better. The child objects to being returned to
17 Singapore for these reasons.

18 As I just stated, the content of the reasoning is not what
19 matters; it is simply that there is particularized reasoning.
20 And those are particularized objections.

21 Now, last I want to comment on the testimony and claims by
22 father surrounding influence and gatekeeping. Now, I'm not
23 going to stand up here before this court and deny that mother
24 has had an influence on her child's views. But her influence
25 is not vindictive or undue or unjustified restrictive

1 gatekeeping. Dr. Poppleton explained in depth to the court
2 that when the evidence supports or corroborates allegations
3 of abuse or harm, the court may be looking at a situation of
4 justified restrictive gatekeeping, rather than unjustified
5 restrictive gatekeeping. And Dr. Favaro agreed with that.
6 Mother is not influencing her child because she's mad at the
7 father. She's being protective after her and her child
8 endured years of domestic violence at father's hands. She's
9 answering her child's questions, and, in her mind, protecting
10 him from further harm caused by his father.

11 So to conclude, I ask that the court find in mother's
12 favor in this trial. Father has not proved his prima facie
13 case. And mother has more than proved her affirmative
14 defenses. She and her sweet eight-year-old son are the
15 victims of abuse. Father has violated their fundamental
16 human rights to be free from abuse, to be free from violence.
17 And this child, under no circumstances, should be returned to
18 Singapore.

19 Thank you.

20 THE COURT: Thank you, counsel.

21 MR. MIN: Thank you, Your Honor. Just a few quick
22 corrections. Counsel misstated the record a couple of times
23 talking about the child being in an American community and in
24 an American school. Yeah, perhaps before the summer of 2024.
25 But they moved. And they moved to a new school that was not

1 an American school and that was not an American community.

2 And the record does not support counsel's representations.

3 Furthermore, counsel miscited the statement, adding the
4 word "bitch" to petitioner's comment. That is, again, not
5 supported by the record. So I wanted to correct those
6 statements or misstatements by counsel.

7 She also talks about not going to Singaporean restaurants.

8 The case law is clear: This is a question about
9 acclimatization, not acculturation. You don't need to do
10 everything Singaporean. The question is whether the child
11 was at home there and acclimatized to Singapore, not whether
12 the child was acculturized to Singapore.

13 And talking about the mother protecting the child from
14 further harm, this is the mother who invited the father to
15 speak with the child whenever he wanted. That is what she
16 wrote to him, offered and said, "You can speak to the child."
17 And then she went right out and got an order of protection,
18 restricting exactly that. So she's trying to have it both
19 ways. She's offering the connection between the father and
20 the child, and then she's taking it away. There's no
21 consistency there. This goes to the issue of grave risk of
22 harm.

23 The Ninth Circuit has stated in *Moses* it's about serious
24 abuse, more than minimal. And they've also stated it's a
25 short-term remedy. Grave risk is about short-term issues.

1 In order to permit the custody --

2 THE COURT: Excuse me, counsel.

3 Counsel, I apologize. Could you step to the back of the
4 courtroom? It's very difficult for me to hear; I'm not sure
5 about the court reporter.

6 MS. SEIPEL: I apologize, Your Honor. I'm really
7 sorry.

8 THE COURT: Okay.

9 MR. MIN: The question is whether the child is in
10 danger in the short term so that the custody court can
11 adequately address the best interests of the child. And that
12 is what *Moses* said. "Hague Convention provides only a
13 professional and short-term remedy in order to permit
14 long-term custody proceedings to take place."

15 So it's not about, as the court says, "Even a living
16 situation capable of causing grave psychological harm over
17 the full course of a child's development is not necessarily
18 likely to do so in the period necessary to obtain a custody
19 determination."

20 Is there a grave risk to this child in the time period
21 that -- even allowing him to go back to Singapore for custody
22 proceedings -- would cause this long-term developmental harm?
23 That's not the question, long-term developmental harm. That
24 is what respondent is focusing on about the impact of
25 coercive control. That is not for this court to determine.

1 It's also -- respondent also spends a lot of time talking
2 about spousal abuse. The case law is clear: There has to be
3 a nexus to this child. Coercive control. Is there a nexus
4 between that and impact on this child?

5 The case of *Grano v. Martin* out of the Southern District
6 of New York, affirmed by the Second Circuit, 443 F. Supp 3d,
7 is illustrative here. The court found that petitioner was
8 coercively controlling, described him as a terrible husband.
9 However, it did not pose a grave risk of harm to the child.

10 That is the question here. When asked by Dr. Poppleton,
11 the mother responded "no" to all questions about whether the
12 child had been physically, emotionally or sexually abused.
13 The concern of the mother was that the child would be exposed
14 to petitioner's sexual contact outside the marriage or view
15 pornography, not about physical abuse or other dangers to the
16 child.

17 Sporadic corporal punishment also has routinely been found
18 by courts not to be sufficient to raise to the level of grave
19 risk of harm. The testimony here was clear: There was
20 sporadic corporal punishment. Pinching was the primary
21 source of corporal punishment. There's no testimony that
22 this happened weekly, daily. There was testimony this
23 happened a handful of times. Respondent testified to one
24 incident where petitioner allegedly hit the child, even
25 though she later corrected herself and said she wasn't there

1 to witness it. If this court orders the return of the child
2 to Singapore, they're not going to be living in the same
3 household; there's not going to be this ongoing dynamic the
4 child is going to be witnessing. The courts in Singapore
5 will be able to fashion any sort of measure possible to
6 protect against any risk, be it small or grave, to this
7 child.

8 The *Golan* case is very important for this court to
9 consider. In that case there was severe spousal abuse,
10 physical, emotional abuse on the mother. The court there,
11 however, still considered the ameliorative measures. Orders
12 of protection. Payment of money to secure housing in Italy.
13 And ordered the return of the child on multiple occasions,
14 while the mother in that case was still alive.

15 THE COURT: Counsel, your time has expired.

16 MR. MIN: If I may have one extra minute because of
17 the interruptions, and to address mature age.

18 THE COURT: All right, counsel.

19 MR. MIN: Thank you.

20 In this case there are not particularized objections. The
21 case law is clear: Particularized objections are different
22 than preferences. Whether possibility of friends is not a
23 particularized objection, that is a preference. The child
24 has never stated he objects or won't go back to Singapore.
25 He's only told Dr. Poppleton he likes America and would

1 prefer to stay here. That is a preference, Your Honor.

2 And the Article 20 defense has never been granted by any
3 court in the United States. There's one court in Texas that
4 was overturned by the Fifth Circuit. But that has never been
5 a sustainable defense on human rights, Your Honor.

6 THE COURT: Thank you. Counsel, I'll direct the
7 parties to return back to this court at 4:00 p.m., and I will
8 render my opinion at that point in time.

9 We'll be in recess.

10 (Recess.)

11 THE COURT: Good afternoon, again. Please be seated.
12 Having heard from the parties, the opportunity for each party
13 to give its closing remarks in this court, the court makes
14 the following determinations and findings.

15 The Hague Convention on the civil aspects of international
16 child abduction was adopted in 1980. The Convention's goal
17 is to secure the prompt return of children wrongfully removed
18 to or retained in any contracting state and to ensure that
19 rights of custody and of access under the law of one
20 contracting state are effectively respected in the other
21 contracting state. The United States and Singapore are
22 signatories to the Convention.

23 In drafting the Convention's provisions, the Conference
24 attempted to address a particular type of kidnapping
25 scenario, one in which a person, usually a parent, removed

1 the child to or retained the child in a country that is not
2 the child's habitual residence in order to obtain a right of
3 custody from the authorities of the country to which the
4 child has been taken.

5 In Hague cases, the court must answer four questions.
6 One, when the removal or retention at issue took place. Two,
7 which state the child was habitually a resident of
8 immediately prior to the removal or retention. Three,
9 whether the removal or retention breached the rights of
10 custody attributed to the petitioner under the law of
11 habitual residence. And whether the petitioner was
12 exercising such custody rights at the time of the removal or
13 retention.

14 Many of these issues have not been in dispute, but the
15 court must address those that are.

16 First, a Hague overview. Article 13 provides exceptions
17 to the mandate that the child be returned to his or her
18 habitual residence. Article 13(a) provides that a court may
19 refuse to return a child to its habitual residence if it has
20 been shown, by a preponderance of the evidence, that, one,
21 the child objects to being returned; and two, has attained an
22 age and degree of maturity at which it is appropriate to take
23 account of the child's views. This exception is rooted in
24 the autonomy of the child.

25 Additionally, Article 13(b) contains an exception to

1 mandatory return when a respondent can show by clear and
2 convincing evidence that there is a grave risk that the
3 child's return would expose the child to physical or
4 psychological harm or otherwise place the child in an
5 intolerable situation.

6 This is in accordance with 22 United States Code,
7 Section 9003 subsection (e)(2). If grave risk is found, the
8 court may consider ameliorative measures, conditions that
9 parents or state authorities shall follow, to help mitigate
10 the risk the child would face upon his or her return.

11 Unless and until there's a determination that the child
12 cannot be returned, the judicial or administrative
13 authorities of the contracting state to which the child has
14 been removed, or in which it has been retained, shall not
15 decide on the merits of rights of custody.

16 Here the parties do not dispute that the child was
17 wrongfully removed. So the court need only determine
18 habitual residence and the applicability of any exceptions or
19 defenses.

20 So with this, the court will look at the evidence at trial
21 and the background of the removal. This case, in essence,
22 can best be described as a scenario where we have two
23 conflicting parents and three experts, experts which have not
24 had the opportunity to interview all involved parties. The
25 fact witnesses essentially are the petitioner and respondent.

1 The expert witnesses are Dr. Poppleton, a child psychology
2 expert; and the respondent's expert, Dr. Favaro; the child
3 psychology rebuttal expert, Dr. Day, the methodology rebuttal
4 expert; and Ms. Kee Lay Lian, the Singapore legal expert.
5 The court notes that it would have been helpful and
6 beneficial for the court to have some of the other witnesses
7 who were listed to provide additional fact testimony. That
8 was the parties' discretion in terms of electing those
9 witnesses they wished to testify. That would have been
10 helpful for the court to make independent observations from
11 those individuals who were in eye sight, ear sight, and an
12 opportunity to observe the relationship and conduct of both
13 the petitioner and respondent.

14 That didn't take place, so the court must make its
15 decisions based upon the evidence before it.

16 Let's look at the removal. The parties 11-year marriage
17 broke down in the summer months of 2024. Tensions came to a
18 head in late August 2024 when the respondent discovered
19 cameras in the couples' home in Singapore. And a
20 confrontation ensued. The confrontation ended with
21 respondent reporting this incident to law enforcement in
22 Singapore and petitioner returning to India on a trip.
23 Petitioner remained in India for several weeks before
24 respondent applied for an emergency passport with the United
25 States embassy.

1 On October 14, 2024, respondent left Singapore with the
2 child and left for Washington State. Petitioner has had
3 little or no contact with the child since the removal. The
4 date of removal and the breach of petitioner's custody rights
5 at the time of removal is not disputed. The first and
6 central issue the court must decide is that of habitual
7 residence.

8 The term "habitual residence" was intentionally left
9 undefined the Convention. This was done to avoid formalistic
10 determinations. The Conference found that the question of
11 whether a person is or is not habitually a resident in a
12 specific country is a question of fact to be decided by
13 reference to all the circumstances on a particular case.

14 Determination of the child's habitual residence is a
15 central, often outcome determinative, concept on which the
16 entire system is founded. The place where a child is at home
17 at the time of removal or retention ranks as this child's
18 habitual residence.

19 A child's residence in a country may be deemed habitual
20 when it's more than transitory. The court must consider the
21 family and social environment in which the child's life has
22 developed because the child's residence becomes habitual when
23 there is some degree of integration by the child in a social
24 and family environment.

25 For children old enough to acclimatize to their

1 surroundings, facts surrounding acclimatization will be
2 highly relevant. As a part of this fact-driven inquiry, the
3 court must be sensitive to the unique circumstances of the
4 case and informed by common sense.

5 Such facts may include the child's age, the immigration
6 status of the child and parents, the child's academic
7 activities, social engagements, participation in sports,
8 meaningful connections with people and places in the child's
9 new country, language proficiency, and the location of the
10 child's personal belongings.

11 Notably, the Convention does not require that a child's
12 habitual residence depend upon an actual agreement between
13 the child's parents.

14 When looking at the facts that have been presented to this
15 court, among others, the court looks at the facts in support
16 of Singapore as the child's habitual residence. The facts
17 before this court demonstrate and indicate the child was in
18 Singapore for two years prior to the removal date on
19 October 14, 2024. That was from essentially ages six to age
20 eight. Also, the fact that the child attended school in
21 Singapore and had friends in Singapore, attended birthday
22 parties and sleepovers. The court also noted that the child
23 participated in extracurricular activities in Singapore:
24 Basketball, swimming, dance, chess. He was also closer to
25 family in India. Visits from India and visits from family

1 members to Singapore.

2 There is also evidence that the child had language
3 opportunities, with some degree of understanding of different
4 languages. And the child's activities associated with his
5 living in Singapore for that period of time and before his
6 removal, the child had been signed up for activities for an
7 additional period of time.

8 The facts against Singapore being the child's habitual
9 residence include the fact that the child is an American
10 citizen and the mother is an American citizen. And the dad
11 is a citizen of India. The court also notes that the
12 evidence indicates that the father gave up his green card in
13 the United States. The child lived in the United States from
14 birth to age six. The child mostly communicates in English.
15 Temporary visas in Singapore and the parents' intent of
16 staying in Singapore, India court documents demonstrate that
17 Singapore was a short sojourn, and the parties' testimony
18 about the child involving -- strike that -- avoiding
19 conscripted military service.

20 Looking to the habitual residence right before the time of
21 removal is critical in this court's conclusions. The child's
22 family and social life was integrated in Singapore. The
23 parents' intent to stay or leave Singapore is ultimately
24 inconclusive, and it cannot override that A.S.'s family and
25 social life was in Singapore at the time of removal.

1 The court confirms that intent manifested by activities
2 and just the words of the parties, particularly words of the
3 parties during a period of significant marital discord, is
4 not determinative. So for these reasons, the court finds
5 that the habitual residence was in Singapore.

6 Next, the court looks to mature child objections and
7 considerations. The district court may properly refuse to
8 order the return of a child if it finds that the child
9 objects to being returned and has attained an age and degree
10 of maturity at which it is appropriate to take account of his
11 or her views. Respondent has the burden of proving this
12 affirmative defense by a preponderance of the evidence.

13 There is no minimum age attributed to this provision, and
14 if the court determines that the child's views are the
15 product of undue influence, they should not be taken into
16 account. Further, courts distinguish between the child's
17 objection to return, as referenced in the Hague Convention,
18 and a child's wishes, as expressed in a custody case. The
19 notion of objections is far stronger and more restrictive
20 than that of wishes in a custody case. Expressions of a
21 preference to remain in the respondent's country is not
22 enough to disregard the narrowness and the age and maturity
23 exception to the Convention's rule of mandatory return.

24 So the court looks at the mature child factual
25 considerations. The facts to support the mature child

1 defense. We have expert testimony from the petitioner and
2 respondent that the child is bright and engaged. Expert
3 testimony that the child thinks logically. Expert testimony
4 that the child considers others' feelings, when discussing
5 which country he would live in, report cards that demonstrate
6 the child's academic ability, and expert testimony that
7 supports that A.S. is content living in Washington State.

8 The facts refuting the mature child defense is
9 demonstrated by the expert testimony that the child is
10 developmentally similar to other children his age, eight
11 years old, and expert testimony that supports that A.S. would
12 be content living in Singapore if his parents lived in
13 separate households.

14 When considering undue influence, the best testimony that
15 was presented to this court was the iPad recording sessions
16 with petitioner's expert, the child's knowledge of his
17 parents' legal disputes, the petitioner's attempt to show
18 that the child's views were the product of undue influence.
19 But the court does not find these facts establish there was
20 any undue influence.

21 The court therefore finds that even if the court found
22 that the child was mature, it is unclear that he objects to
23 returning to Singapore. The child did not testify at trial.
24 And the testimony of the parties and experts are conflicting
25 concerning the child's views. Therefore, the court finds

1 respondent did not meet the evidentiary burden required to
2 establish the mature child exception. At best, we have
3 expressions of preferences by the child, but nothing further.

4 Next the court considers the grave risk of harm and
5 ameliorative measures. Starting first with the grave risk of
6 harm legal considerations. To succeed on this defense,
7 respondent must establish by clear and convincing evidence
8 that there is a grave risk that the child's return would
9 expose him, and I emphasize "him," to physical or
10 psychological harm or otherwise place the child in an
11 intolerable situation.

12 A respondent parent can establish a grave risk of harm
13 from abuse where the petitioning parent had actually abused,
14 threatened to abuse, or inspired fear in the child in
15 question. The grave-risk exception has been applied in
16 instances where a child is at risk of serious abuse or
17 neglect if repatriation occurs or, alternatively, where the
18 place of habitual residence has been deemed unsafe. For
19 instance, in times of war or famine.

20 Courts are often reluctant to apply the grave harm
21 exception in cases where the alleged harm was sporadic
22 corporal punishment.

23 Domestic violence may also establish a grave risk of harm
24 to a child, particularly when it occurs in the presence of
25 the child.

1 In determining whether domestic violence between parents
2 creates a grave risk of harm, the proper inquiry focuses on
3 the risk faced by the child, not the parent.

4 Next, the court looks at the grave risk of harm factual
5 considerations. The facts in support of the grave risk
6 defense. There's testimony and some corroborating evidence
7 about petitioner's sexual abuse of respondent. The parties
8 provide extensive testimony that lasted almost two full days.
9 There's expert testimony regarding intimate partner violence
10 impacting on the children, generally. There's testimony and
11 corroborating evidence about the petitioner's control over
12 the respondent. For example, limiting access to bank
13 accounts after the incident in August 2024. Only recent
14 depositing of a large sum of money to benefit the respondent.
15 Conflicting out attorneys to prevent the respondent from
16 obtaining legal representation. Taking the child's passport
17 when he left for India in late August 2024. And testimony
18 about the petitioner's pinching or shaking of the child.

19 The facts refuting a grave risk defense. The testimony
20 does not demonstrate that the child was present for any of
21 the domestic violence. There is no demonstrated pattern of
22 corporal punishment to the child. There is even an occasion
23 where the mother, according to the testimony, was not
24 present, although there's an allegation of the father's
25 conduct in terms of striking the child. There's also limited

1 psychological evaluations of the child. And the only fact
2 witnesses are petitioner and the respondent. And there's no
3 documentary evidence of any physical harm to the child, or
4 that he was present or observed physical violence against the
5 mother, or any sexual abuse against the mother, or that the
6 child observed any porn allegedly observed or watched by the
7 father.

8 Although there has been credible testimony in supporting
9 evidence that respondent has experienced intimate partner
10 violence at the hands of petitioner, there has not been
11 sufficient testimony that the child witnessed or was impacted
12 by the turmoil in the parents' relationship.

13 Therefore, respondent has not shown by clear and
14 convincing evidence the child would be exposed to physical or
15 psychological harm if returned to Singapore.

16 Next, the court looks at ameliorative measures and the
17 legal considerations. The United States Supreme Court has
18 stated when a district court -- strike that. "While a
19 district court has no obligation under the Convention to
20 consider ameliorative measures that have not been raised by
21 the parties, it ordinarily should address ameliorative
22 measures raised by the parties or obviously suggested by the
23 circumstances of the case." That's a direct reference and
24 quotation from the *Golan* case, 142 Supreme Court at 1893.

25 The question whether there is a grave risk is separate

1 from the question of whether there are ameliorative measures
2 that could mitigate that risk. These inquiries will often
3 overlap considerably.

4 Now, the facts in support of ameliorative measures
5 mitigating risk. There's expert testimony that has been
6 presented to this court that Singapore would have
7 jurisdiction to decide custody. The courts have the power to
8 make orders for child care arrangements so long as the child
9 is habitually a resident in Singapore.

10 Singapore courts would allow the child's opinion to be
11 considered or heard. The courts can appoint a counselor and
12 psychological services. These counselor reports are private
13 to a judge. The courts permit judicial interviews of a
14 child. The child can have its own attorney, a child
15 representative.

16 Singapore courts have adequate legal procedures to protect
17 the child after custody proceedings. This includes child
18 maintenance. Singapore courts can issue orders based on the
19 child's personal expenses and housing expenses.

20 If the mother has no ability to earn income, the court can
21 attribute the entire household expenses to the child. As of
22 January 16th, Singapore courts can issue Personal Protection
23 Orders for physical, emotional and psychological abuse.

24 Singapore courts can issue protective orders without
25 limitations on expiration or as ordered by the court, and the

1 court can order exclusion of a party from the home.

2 Although there was expert testimony that supports
3 Singapore courts would Honor an agreement where the father
4 agrees not to revoke the Dependent Pass visas, there was some
5 conflicting testimony about the stability of the visa
6 situation.

7 The court also notes that there's been no direct evidence
8 that the father would not Honor an order of a court from
9 Singapore. There's an issue raised about the father not
10 returning on isolated occasions. But there's no other
11 documented evidence other than fear or suspicion of what the
12 father's activities would be.

13 Therefore, even if this court found there was clear and
14 convincing evidence of grave risk of harm to the mother, this
15 court finds that there are sufficient measures and safeguards
16 available in the Singapore legal system that would be
17 ameliorative and mitigate the risk of harm. These are the
18 findings and conclusions of the court.

19 Now, since both parties are here, this court is not
20 responsible for deciding custody issues. But from my review
21 of the evidence and docket and briefing supplied by the
22 parties, an enormous amount of money, an enormous amount of
23 time and energy has been dedicated to the turmoil and strife
24 between the petitioner and respondent.

25 That same type of energy should be geared towards

1 resolution and reaching a manner of which -- looking at
2 what's in the best interests of the child. By making these
3 comments, I'm not suggesting that I'm making a determination
4 of what's in the best interests of the child. But what I can
5 tell you is, from my experience on the bench of many years,
6 when parents focus on trying to resolve their differences,
7 and not resolve those differences using the child as a
8 vehicle to resolve those differences, that is a manner in
9 which you can best accomplish your goals and objectives.

10 Please note that everything that you've done up to this
11 point is a matter of public record. Everything that you've
12 done up to this point, by way of testimony, pleadings and
13 submissions to this court, is something down the road, when
14 your child is a young man, that he can look up and review.
15 Your child may have a perspective of you right now at
16 eight years of age. But I can assure you when your child
17 reaches his 20s or 30s and goes back to look and see, "What
18 happened to my parents? Why did my parents separate? Why
19 did I transfer, and why was I removed to the United States?
20 What were the fears and concerns? What were the
21 allegations?" Those are all matters of your public record.

22 Please know that whatever record that you're making now
23 and will continue to make going forward will be part of your
24 son's memory of who you are and what you're all about.

25 Those are the findings of the court.

1 We'll be in recess.

2 (Adjourned.)

3
4 C E R T I F I C A T E
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6

7 I certify that the foregoing is a correct transcript from
8 the record of proceedings in the above-entitled matter.

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10
11
12 /s/ *Debbie Zurn*

13 DEBBIE ZURN
14 COURT REPORTER
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